

EXHIBIT 1

1 (Pages 1 to 4)

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<p>UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA</p> <p>League of Latin American Citizens) - Richmond) Plaintiff,)) vs.) No. 1:18-cv-00423) Public Interest Legal Foundation) and J. Christian Adams)) Defendant.) _____)</p> <p>DEPOSITION OF JUSTIN LEVITT taken at 555 South Flower Street, Thirty-Third Floor, Los Angeles, California, at 9:14 a.m., Wednesday, April 17, 2019, before Theresa JoAnn Phillips-Blackwell, CSR 12700.</p>	<p style="text-align: center;">I N D E X</p> <table> <thead> <tr> <th style="text-align: left; vertical-align: bottom;">1</th><th style="text-align: right; vertical-align: bottom;">DEPONENT</th><th style="text-align: right; vertical-align: bottom;">EXAMINED BY</th><th style="text-align: right; vertical-align: bottom;">PAGE</th></tr> </thead> <tbody> <tr> <td style="text-align: left;">2</td><td style="text-align: left;">Justin Levitt</td><td style="text-align: right;">Mr. Lockerby</td><td style="text-align: right;">8</td></tr> <tr> <td style="text-align: left;">3</td><td></td><td style="text-align: right;">EXHIBITS</td><td></td></tr> <tr> <td style="text-align: left;">4</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left;">5</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left;">6</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left;">7</td><td style="text-align: left;">DEFENSE</td><td style="text-align: right;">PAGE</td><td></td></tr> <tr> <td style="text-align: left;">8</td><td>1 - Subpoena To Produce Documents, Information, Or Objects Or To Permit Inspection Of Premises In A Civil Action</td><td style="text-align: right;">32</td><td></td></tr> <tr> <td style="text-align: left;">9</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left;">10</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left;">11</td><td>2 - Subpoena To Produce Documents, Information, Or Objects Or To Permit Inspection Of Premises In A Civil Action</td><td style="text-align: right;">32</td><td></td></tr> <tr> <td style="text-align: left;">12</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left;">13</td><td>3 - Subpoena To Testify At A Deposition In A Civil Action</td><td style="text-align: right;">32</td><td></td></tr> <tr> <td style="text-align: left;">14</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left;">15</td><td>4 - E-Mail Dated March 29, 2019</td><td style="text-align: right;">33</td><td></td></tr> <tr> <td style="text-align: left;">16</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left;">17</td><td>5 - Privilege Log</td><td style="text-align: right;">34</td><td></td></tr> <tr> <td style="text-align: left;">18</td><td></td><td></td><td></td></tr> <tr> <td style="text-align: left;">19</td><td>6 - Privilege Log - Subpoenas To Loyola Law School And Justin Levitt</td><td style="text-align: right;">38</td><td></td></tr> <tr> <td style="text-align: left;">20</td><td>7 - Code of Virginia Section 8.01-223.2</td><td style="text-align: right;">45</td><td></td></tr> <tr> <td style="text-align: left;">21</td><td>8 - Code of Virginia Section 18.2-451</td><td style="text-align: right;">46</td><td></td></tr> <tr> <td style="text-align: left;">22</td><td>9 - Code of Virginia Section 18.2-499</td><td style="text-align: right;">47</td><td></td></tr> <tr> <td style="text-align: left;">23</td><td>10 - Code of Virginia Section 18.2-500</td><td style="text-align: right;">48</td><td></td></tr> <tr> <td style="text-align: left;">24</td><td>11 - Letter Dated October 17, 2008</td><td style="text-align: right;">48</td><td></td></tr> <tr> <td style="text-align: left;">25</td><td>12 - Article Entitled "White House Counsel Robert Bauer: Architect of IRS Abuse?"</td><td style="text-align: right;">51</td><td></td></tr> <tr> <td></td><td>13 - Article Entitled "Obama and Holder Cry Wolf on Voting Rights"</td><td style="text-align: right;">57</td><td></td></tr> </tbody> </table>	1	DEPONENT	EXAMINED BY	PAGE	2	Justin Levitt	Mr. Lockerby	8	3		EXHIBITS		4				5				6				7	DEFENSE	PAGE		8	1 - Subpoena To Produce Documents, Information, Or Objects Or To Permit Inspection Of Premises In A Civil Action	32		9				10				11	2 - Subpoena To Produce Documents, Information, Or Objects Or To Permit Inspection Of Premises In A Civil Action	32		12				13	3 - Subpoena To Testify At A Deposition In A Civil Action	32		14				15	4 - E-Mail Dated March 29, 2019	33		16				17	5 - Privilege Log	34		18				19	6 - Privilege Log - Subpoenas To Loyola Law School And Justin Levitt	38		20	7 - Code of Virginia Section 8.01-223.2	45		21	8 - Code of Virginia Section 18.2-451	46		22	9 - Code of Virginia Section 18.2-499	47		23	10 - Code of Virginia Section 18.2-500	48		24	11 - Letter Dated October 17, 2008	48		25	12 - Article Entitled "White House Counsel Robert Bauer: Architect of IRS Abuse?"	51			13 - Article Entitled "Obama and Holder Cry Wolf on Voting Rights"	57	
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<p>1 APPEARANCES OF COUNSEL: 2 3 4 For Plaintiff: 5 DAVID LEBOWITZ, ESQ. EMERY CELLI BRINCKERHOFF & ABADY LLP 6 600 Fifth Avenue Tenth Floor 7 New York, New York 10020 (212) 763-5000 8 dlebowitz@ecbalaw.com 9 For Protect Democracy Project and Southern Coalition for Social Justice: 10 THOMAS E. GORMAN, ESQ. 11 KEKER VAN NEST & PETERS LLP 633 Battery Street 12 San Francisco, California 94111 (415) 676-2292 13 tgorman@keker.com 14 For Defendant: 15 MICHAEL J. LOCKERBY, ESQ. FOLEY & LARDNER LLP 16 3000 K Street, N.W. Suite 600 17 Washington, D.C. 20007 (202) 945-6079 18 mlockerby@foley.com 19 For Deponent Justin Levitt: 20 HAROLD A. BRIDGES, ESQ. BRIDGES & BRIDGES 21 318 Avenue I Suite 606 22 Redondo Beach, California 90277 (310) 375-0434 23 drew@bridges-law.com 24 Also Present: Alex Loverde, videographer</p>	<p style="text-align: center;">I N D E X (Continued) EXHIBITS</p> <table> <thead> <tr> <th style="text-align: left; vertical-align: bottom;">1</th><th style="text-align: right; vertical-align: bottom;">DEFENSE</th><th style="text-align: right; vertical-align: bottom;">PAGE</th></tr> </thead> <tbody> <tr> <td style="text-align: left;">2</td><td>14 - Article Entitled "Exclusive: Meet the Radical Lawyers the DOJ Hired to Oversee Elections"</td><td style="text-align: right;">57</td></tr> <tr> <td style="text-align: left;">3</td><td></td><td></td></tr> <tr> <td style="text-align: left;">4</td><td>15 - Article Entitled "Former DOJ Head Michael Mukasey Hits Obama's DOJ Voting Section"</td><td style="text-align: right;">61</td></tr> <tr> <td style="text-align: left;">5</td><td></td><td></td></tr> <tr> <td style="text-align: left;">6</td><td>16 - Letter Dated June 19, 2013</td><td style="text-align: right;">61</td></tr> <tr> <td style="text-align: left;">7</td><td>17 - Letter Dated March 6, 2014</td><td style="text-align: right;">67</td></tr> <tr> <td style="text-align: left;">8</td><td></td><td></td></tr> <tr> <td style="text-align: left;">9</td><td>18 - Letter Dated November 10, 2014</td><td style="text-align: right;">67</td></tr> <tr> <td style="text-align: left;">10</td><td>19 - Form for Canceling Registration in San Diego County</td><td style="text-align: right;">67</td></tr> <tr> <td style="text-align: left;">11</td><td></td><td></td></tr> <tr> <td style="text-align: left;">12</td><td>20 - Letter Dated March 23, 2015</td><td style="text-align: right;">67</td></tr> <tr> <td style="text-align: left;">13</td><td></td><td></td></tr> <tr> <td style="text-align: left;">14</td><td>21 - Letter Dated March 28, 2016</td><td style="text-align: right;">67</td></tr> <tr> <td style="text-align: left;">15</td><td></td><td></td></tr> <tr> <td style="text-align: left;">16</td><td>22 - Letter Dated July 6, 2016, from the San Francisco Department of Elections; Handwritten Letter Dated June 16, 2016</td><td style="text-align: right;">68</td></tr> <tr> <td style="text-align: left;">17</td><td></td><td></td></tr> <tr> <td style="text-align: left;">18</td><td>23 - Form for Canceling Registration in San Diego County</td><td style="text-align: right;">68</td></tr> <tr> <td style="text-align: left;">19</td><td>24 - Letter Dated September 13, 2016</td><td style="text-align: right;">68</td></tr> <tr> <td style="text-align: left;">20</td><td>25 - Brief of the American Civil Rights Union as Amicus Curiae in Support of Petitioners</td><td style="text-align: right;">82</td></tr> <tr> <td style="text-align: left;">21</td><td></td><td></td></tr> <tr> <td style="text-align: left;">22</td><td>26 - E-Mail Dated April 11, 2016, with Attachments</td><td style="text-align: right;">89</td></tr> <tr> <td style="text-align: left;">23</td><td></td><td></td></tr> <tr> <td style="text-align: left;">24</td><td>27 - Various E-Mails</td><td style="text-align: right;">98</td></tr> <tr> <td style="text-align: left;">25</td><td>28 - Various E-Mail Strings</td><td style="text-align: right;">99</td></tr> </tbody> </table>	1	DEFENSE	PAGE	2	14 - Article Entitled "Exclusive: Meet the Radical Lawyers the DOJ Hired to Oversee Elections"	57	3			4	15 - Article Entitled "Former DOJ Head Michael Mukasey Hits Obama's DOJ Voting Section"	61	5			6	16 - Letter Dated June 19, 2013	61	7	17 - Letter Dated March 6, 2014	67	8			9	18 - Letter Dated November 10, 2014	67	10	19 - Form for Canceling Registration in San Diego County	67	11			12	20 - Letter Dated March 23, 2015	67	13			14	21 - Letter Dated March 28, 2016	67	15			16	22 - Letter Dated July 6, 2016, from the San Francisco Department of Elections; Handwritten Letter Dated June 16, 2016	68	17			18	23 - Form for Canceling Registration in San Diego County	68	19	24 - Letter Dated September 13, 2016	68	20	25 - Brief of the American Civil Rights Union as Amicus Curiae in Support of Petitioners	82	21			22	26 - E-Mail Dated April 11, 2016, with Attachments	89	23			24	27 - Various E-Mails	98	25	28 - Various E-Mail Strings	99																													
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1	IN D E X (Continued)		1	(Los Angeles, California; Wednesday, April 17, 2019,	
2	EXHIBITS		2	9:14 a.m.)	
3			09:14:00	3	
4	DEFENSE	PAGE	09:14:08	4	THE VIDEOGRAPHER: Good morning. My name is
5	29 - Redacted Documents and an E-Mail	102	09:14:45	5	Alex Loverde. I am a videographer associated with a
6	Dated July 28, 2017		09:14:47	6	Sound Depo. The date today is April 17, 2019; and the
7	30 - Fed. R. Evid. 1006 Summary of Justin	103	09:14:51	7	time is 9:14 a.m.
8	Levitt's Email Exchanges with		09:14:53	8	This deposition is taking place at Foley &
9	Virginia Voters Identified in		09:14:55	9	Lardner in the matter of the League of Latin American
10	PILF/VVA Reports		09:14:59	10	Citizens - Richmond versus Public Interest Legal
11	31 - Spreadsheet Containing Names and	108	09:15:01	11	Foundation and J. Christian Adams. Case number is
12	E-Mail Addresses		09:15:07	12	1:18-cv-00423. And this is the videotaped deposition of
13	32 - List of Names and Information on	110	09:15:11	13	Justin Levitt taken on behalf of the defendant.
14	Voting History		09:15:14	14	Will the counsels for all parties please
15	33 - List of Names and Information on	119	09:15:15	15	identify themselves.
16	Voting History		09:15:17	16	MR. LOCKERBY: Plaintiffs first.
17	34 - Various E-Mails	136	09:15:20	17	MR. LEBOWITZ: Sure. David Lebowitz from Emery
18	35 - Article Entitled "Fake 'Voter Fraud' Report Debunked by Woman Featured in Front Page Article"	143	09:15:23	18	Celli Brinckerhoff & Abady for the plaintiffs.
19	36 - Article Entitled "Presidential Commission Demands Massive Amounts of State Voter Data"	154	09:15:26	19	MR. GORMAN: Thomas Gorman from Keker,
20	37 - Article Entitled "Trump's voter fraud task force may have broken 2 federal laws"	161	09:15:30	20	Van Nest & Peters on behalf of the Protect Democracy
21	38 - Printouts from Twitter	163	09:15:35	21	Project and the Southern Coalition for Social Justice.
22	39 - Document Entitled "On the Eve of the Purges"	181	09:15:36	22	MR. BRIDGES: Harold A. Bridges of Bridges &
23	40 - Article Entitled "Trump's Voter Suppression Dream Team/The Voter Purges are Coming"	187	09:15:39	23	Bridges for the deponent, Justin Levitt.
24	41 - Various E-Mails	191	09:15:42	24	MR. LOCKERBY: And Michael J. Lockerby with
25			09:15:45	25	Foley & Lardner LLP for the defendants.
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1	IN D E X (Continued)		09:15:47	1	THE VIDEOGRAPHER: Thank you very much.
2	EXHIBITS		09:15:48	2	Will the court reporter please swear in the
3			09:15:50	3	witness.
4	DEFENSE	PAGE	09:15:51	4	DEPOSITION OFFICER: You do solemnly state that
5	42 - Article Entitled "President Trump's Voter Fraud Commission Meets, Smeared by Deniers"	195	09:15:51	5	the evidence you shall give in this matter shall be the
6			09:15:51	6	truth, the whole truth, and nothing but the truth, so
7	43 - Various E-Mails	199	09:15:51	7	help you God?
8			09:16:00	8	THE WITNESS: I do.
9			09:16:00	9	
10	INSTRUCTED NOT TO ANSWER		09:16:00	10	EXAMINATION
11	PAGE	LINE	09:16:02	11	
12	36	3	09:16:02	12	BY MR. LOCKERBY:
13	44	22	09:16:02	13	Q. Good morning. As you know, my name is Mike
14	112	10	09:16:04	14	Lockerby. Our law firm, Foley & Lardner LLP, represents
15	112	23	09:16:09	15	the defendants in this case, the Public Interest Legal
16	113	4	09:16:13	16	Foundation, to which I'll refer as PILF, and J.
17	116	14	09:16:17	17	Christian Adams, to whom I'll refer as Mr. Adams.
18	150	13	09:16:19	18	If I ask you any questions that are ambiguous
19			09:16:23	19	or that you don't understand, please ask me rephrase
20			09:16:25	20	them.
21			09:16:26	21	Also, if at any time you'd like to take a break
22			09:16:28	22	for any reason, please speak up; and I'll be happy to
23			09:16:31	23	accommodate you. However, I would ask that you not
24			09:16:34	24	request a break while a question is pending.
25			09:16:37	25	First of all, would you please state your name

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09:16:38 1	for the record.		09:19:26 1	A. Correct.	
09:16:39 2	A. My name is Justin Michael Levitt.		09:19:26 2	Q. And what did you do after that?	
09:16:41 3	Q. And, Mr. Levitt, what is your date and place of		09:19:28 3	A. I went to work for a presidential political	
09:16:45 4	birth?		09:19:32 4	campaign.	
09:16:45 5	A. March 19th, 1970, in Morristown, New Jersey.		09:19:36 5	Q. That was in 2003?	
09:16:49 6	Q. And what is your current business and residence		09:19:38 6	A. Correct.	
09:16:52 7	address?		09:19:38 7	Q. Which campaign?	
09:16:53 8	A. Business address is Loyola Law School at 919		09:19:39 8	A. The Wesley Clark for President campaign.	
09:17:00 9	Albany Street in Los Angeles, California 90015.		09:19:42 9	Q. How long did you work on that campaign?	
09:17:03 10	Personal address is 1339 Silver Lake Boulevard in		09:19:51 10	A. Until the campaign was over. It was rather	
09:17:07 11	Los Angeles, California 90026.		09:19:55 11	short.	
09:17:11 12	Q. And you are, of course, a nonparty to this		09:19:55 12	Q. We know the outcome.	
09:17:16 13	litigation.		09:19:58 13	A. I believe it was February of 2014 that he and I	
09:17:17 14	Are you represented by counsel today?		09:20:02 14	parted ways.	
09:17:19 15	A. I am.		09:20:04 15	Q. 2014?	
09:17:19 16	Q. And who is your counsel?		09:20:04 16	A. Sorry. 2004. My apologies. 2004.	
09:17:21 17	A. Drew Bridges, seated to my right.		09:20:08 17	Q. And what was your position with the Wesley	
09:17:23 18	Q. Okay. There are two other lawyers in the room		09:20:11 18	Clark for President campaign?	
09:17:26 19	besides me and Mr. Bridges. Do you claim any kind of		09:20:12 19	A. There were several, which may speak to why it	
09:17:31 20	attorney-client relationship with either of them?		09:20:17 20	was a short campaign. I don't know that I can give them	
09:17:35 21	A. Not with them, no.		09:20:25 21	to you in order, but at various points I collected	
09:17:37 22	Q. Starting with secondary school, would you		09:20:30 22	images of the candidate for use in advertising material.	
09:17:48 23	briefly describe your educational and employment		09:20:35 23	I was the political director for various regions of the	
09:17:51 24	background.		09:20:38 24	United States. I assisted with responses to surveys and	
09:17:54 25	A. I went to Bridgewater High School West as my		09:20:48 25	the like. I was in charge of data targeting for	

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09:22:22	1	A. I was one of the in-house counsel.	09:26:22	1	regulation, to litigate when necessary, to communicate
09:22:26	2	Q. Was there a particular subject area for which	09:26:25	2	about all of those things. On many different parts of
09:22:32	3	you were responsible?	09:26:32	3	the Brennan Center's portfolio, depending on the month,
09:22:36	4	A. Not especially. From time to time I took on	09:26:40	4	or months, I worked on different aspects of the Brennan
09:22:41	5	different buckets of work, and some of my other counsel	09:26:44	5	Center's work, mostly focusing on eligibility, election
09:22:44	6	took on different buckets of work, but not consistently	09:26:49	6	administration, and redistricting.
09:22:47	7	throughout the course of.	09:26:55	7	Q. Did you author or publish any papers or reports
09:22:48	8	Q. Did your duties and responsibilities include	09:27:00	8	while you were at the Brennan Center?
09:22:51	9	voter registration or voter eligibility?	09:27:01	9	A. I did.
09:22:56	10	A. Not conducting voter registration, but	09:27:02	10	Q. Are there any that you specifically recall?
09:23:01	11	examining the practices of the organization, yes.	09:27:05	11	A. There is one called "Making the List" on voter
09:23:10	12	Q. And did your duties and responsibilities	09:27:10	12	registration databases. There was one called "The
09:23:18	13	include ensuring that the organization complied with	09:27:17	13	Citizen's Guide to Redistricting." There was one called
09:23:22	14	legal requirements for registering voters?	09:27:22	14	"The Truth About Voter Fraud." There were chapters of
09:23:25	15	A. To -- to the best of my power.	09:27:34	15	books and other reports that I authored while I was
09:23:27	16	Q. How long did you remain at America Coming	09:27:37	16	there that weren't necessarily published by the Brennan
09:23:31	17	Together?	09:27:40	17	Center. And there were many shorter papers that some
09:23:31	18	A. I -- spring of 2005. I believe I left in May.	09:27:48	18	might call reports and some might not.
09:23:40	19	It's possible I left in March or April.	09:27:53	19	Q. When was "The Truth About Voter Fraud"
09:23:43	20	Q. And what did you do after that?	09:27:55	20	published?
09:23:45	21	A. I went to work for a nonpartisan nonprofit in	09:27:56	21	A. I believe that was 2007, but I'm not certain.
09:23:49	22	New York called the Brennan Center for Justice at NYU	09:28:04	22	Q. Okay. Do you recall what conclusions you
09:23:54	23	School of Law.	09:28:10	23	expressed in that report?
09:23:56	24	Q. How long did you remain at the Brennan Center	09:28:11	24	A. Again, many. It attempted to document some of
09:24:02	25	for Justice?	09:28:17	25	the ways that fraud occurs. It attempted to document
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09:24:02	1	A. With a leave, I was there until June of 2010.	09:28:23	1	some of the ways that claims about fraud may be
09:24:16	2	And I pause before June because, again, I'm not sure of	09:28:28	2	misstated or overstated. It attempted to document some
09:24:20	3	the month. But mid-2010.	09:28:34	3	of the ways in which claims about fraud didn't pan out
09:24:22	4	Q. What was the mission of the Brennan Center for	09:28:38	4	upon further examination.
09:24:30	5	Justice as you understood it?	09:28:44	5	To the extent there was an overall conclusion,
09:24:31	6	A. Manifold. To produce research, to advocate for	09:28:48	6	I guess I'd say it is that in the research I conducted,
09:24:39	7	public policy, to assist with legislation and	09:28:56	7	fraud occurred. Different types of fraud occurred at
09:24:48	8	regulation, to communicate about preferred public	09:29:00	8	different rates. But that the magnitude of voter fraud
09:24:53	9	policy, to litigate when necessary in order to ensure	09:29:05	9	was often overstated in both press and popular advocacy.
09:24:57	10	that the structures of American democracy were more	09:29:12	10	Q. And did you reach any conclusions about the
09:25:08	11	vigorous and vibrant.	09:29:14	11	extent to which noncitizens register and vote in U.S.
09:25:09	12	There were several projects at the Brennan	09:29:19	12	elections?
09:25:12	13	Center. Some of them concerned criminal justice. Some	09:29:19	13	A. I'd characterize them as the same. It happens.
09:25:15	14	of them concerned economic justice. I was working on	09:29:24	14	There are claims that noncitizens vote that are often
09:25:20	15	the project concerning voting rights in elections.	09:29:28	15	inflated or inaccurate. Sometimes in predictable ways.
09:25:32	16	Q. And what was your position, or positions, at	09:29:34	16	And that the overall degree of perception about the
09:25:35	17	the Brennan Center?	09:29:41	17	extent to which noncitizens are voting is likely
09:25:36	18	A. Counsel. While I was there I also served as,	09:29:45	18	overstated but that it happens.
09:25:45	19	for at least one year, an assistant adjunct clinical	09:29:47	19	Q. That was your conclusion in 2007 or
09:25:52	20	professor of law at NYU School of Law.	09:29:57	20	thereabouts. Is that still your opinion today?
09:25:58	21	Q. With respect to voting rights and elections,	09:29:59	21	A. It is.
09:26:03	22	what were your duties and responsibilities at the	09:29:59	22	Q. And you haven't seen anything to make you
09:26:06	23	Brennan Center?	09:30:02	23	change your opinion on that subject?
09:26:09	24	A. To do all of the above tasks. So to conduct	09:30:04	24	A. I have not. I have seen additional instances
09:26:17	25	research, to advocate, to -- to support legislation,	09:30:09	25	of noncitizens who have either registered or voted

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09:30:14	1	unlawfully, and I've seen additional claims that		09:33:26	1	A. Of which?	
09:30:18	2	noncitizens have done so. Some of which are accurate.		09:33:30	2	Q. Facts and circumstances that would make it more	
09:30:22	3	Many of which are not.		09:33:33	3	difficult for eligible voters to vote.	
09:30:23	4	Q. And you yourself have never tried to document		09:33:38	4	A. There were various rules in various states	
09:30:25	5	the extent to which noncitizens vote or have voted in		09:33:42	5	requiring various forms of identification. For example,	
09:30:29	6	U.S. elections, have you?		09:33:45	6	attempting to secure identification for the individuals	
09:30:33	7	MR. BRIDGES: Objection. Vague and ambiguous.		09:33:47	7	who were ineligible. There were various concerns about	
09:30:34	8	You may answer, if you understand.		09:33:53	8	capacity in various jurisdictions, polling sites not	
09:30:38	9	THE WITNESS: I have extended to documents some		09:33:58	9	sufficiently large or not sufficiently well-staffed or	
09:30:42	10	instances in which noncitizens have voted and some		09:34:01	10	not sufficiently equipped or not enough polling sites.	
09:30:45	11	instances in which noncitizens have been claimed to have		09:34:06	11	There were concerns about the scope of preparations for	
09:30:50	12	voted but -- in which the claims were inaccurate. Yeah.		09:34:09	12	early voting and whether individuals would have to wait	
09:30:59	13	I don't know if I can -- I don't know if I understand		09:34:12	13	on extremely long lines in order to vote when voting	
09:31:02	14	the scope of the question beyond that.		09:34:16	14	hours were available. There were concerns about voter	
09:31:03	15	BY MR. LOCKERBY:		09:34:22	15	registration and the improper processing of voter	
09:31:03	16	Q. So you've investigated particular instances of		09:34:26	16	registration forms that might affect eligible voters.	
09:31:06	17	non -- alleged noncitizen voting and registration but		09:34:35	17	There were concerns about either official or unofficial	
09:31:09	18	have not sought to document the extent to which that		09:34:39	18	intimidation.	
09:31:15	19	happens generally. Would that be fair to say?		09:34:48	19	That's off the top of my head, but there are	
09:31:17	20	A. Correct.		09:34:50	20	there are many more. I mean, my -- my responsibilities	
09:31:19	21	Q. Thank you.		09:34:53	21	included responding -- both attempting proactively to	
09:31:19	22	When did you take a leave of absence from the		09:34:57	22	respond to likely concerns and responding to events as	
09:31:25	23	Brennan Center?		09:35:06	23	they arose in the real time.	
09:31:27	24	A. It would have been in the summer -- again, I'm		09:35:08	24	Q. When you referred to "intimidation," what did	
09:31:34	25	not sure of the month -- of 2008.		09:35:12	25	you mean by "intimidation"?	
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09:31:36	1	Q. And what did you do during your leave of		09:35:13	1	A. There were reports in the past of efforts,	
09:31:40	2	absence?		09:35:17	2	sometimes by known actors and sometimes by unknown	
09:31:40	3	A. I served as the national voter protection		09:35:21	3	actors, to mislead voters in a way that would have been	
09:31:43	4	counsel for the Obama campaign located at the Democratic		09:35:29	4	frightening or intimidating to many.	
09:31:52	5	National Committee.		09:35:33	5	A notorious example from 2004 involved a flyer	
09:31:52	6	Q. And as the national voter protection counsel,		09:35:43	6	distributed in black neighborhoods in Milwaukee	
09:32:03	7	to whom did you report?		09:35:46	7	purporting to be from the Milwaukee Black Voters League,	
09:32:04	8	A. I reported to several individuals. Kendall		09:35:49	8	which I do not believe exists or at least which there is	
09:32:09	9	Burman was the in-house counsel. Bob Bauer was the		09:35:52	9	no independent source, actively misstating the rules for	
09:32:16	10	general counsel. Those were probably my direct		09:35:58	10	voting and threatening individuals with both jail time	
09:32:24	11	reporting relationships.		09:36:03	11	and having their kids taken away from them if they	
09:32:28	12	Q. And what were your duties and responsibilities		09:36:07	12	violated these purported rules, which did not exist. It	
09:32:31	13	as national voter protection counsel?		09:36:11	13	seemed to me designed to scare people away from coming	
09:32:34	14	A. To ensure as best I could that if individuals		09:36:17	14	to the polls.	
09:32:37	15	were eligible to vote and wanted to vote, that they		09:36:19	15	Q. That is not something that happened while you	
09:32:42	16	could and that it would stick in the jurisdictions that		09:36:22	16	were working on the Obama campaign, though?	
09:32:46	17	we were targeting.		09:36:25	17	A. That flyer wasn't dropped in 2004. There were	
09:32:47	18	Q. So what was it you were seeking to protect		09:36:29	18	various reports of, as I remember, similar either	
09:32:50	19	voters from?		09:36:39	19	misstatements of the law or threatening presences at	
09:32:51	20	A. Either malfeasance or mistake or both. Either		09:36:42	20	various polling places. And leading up to election day	
09:33:02	21	intentional efforts to keep eligible individuals from		09:36:47	21	there was certainly concern that similar things might	
09:33:05	22	voting or facts and circumstances that ended up making		09:36:52	22	happen in 2008.	
09:33:15	23	it more difficult for eligible individuals to vote,		09:36:53	23	Q. When you say a "threatening presence at a	
09:33:20	24	whether intended or not.		09:36:55	24	polling place," what do you consider to be a threatening	
09:33:21	25	Q. What would some examples of those be?		09:36:59	25	presence?	

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09:36:59	1	A. There was, as I recall -- and I believe this		09:40:37	1	the Civil Rights Division of the Department of Justice.	
09:37:05	2	was 2008, but I honestly can't be sure -- a call to		09:40:44	2	Q. So during the time that you were seconded to	
09:37:14	3	essentially seek -- and I cannot recall exactly how this		09:41:02	3	the federal government, who was paying your salary?	
09:37:19	4	was framed, but in my memory it is beefy tough guys to		09:41:05	4	Loyola or the federal government?	
09:37:25	5	stand at inner city precincts in order to make sure that		09:41:07	5	A. Loyola was paying my salary and being	
09:37:31	6	nothing untoward happened. There are many minority		09:41:10	6	reimbursed by the Department of Justice.	
09:37:37	7	communities in which the presence of beefy tough guys		09:41:12	7	Q. And your secondment started in 2015?	
09:37:41	8	standing and watching the election process can be		09:41:16	8	A. Correct.	
09:37:45	9	intimidating. That doesn't necessarily mean that that		09:41:17	9	Q. Did you have a title at the Civil Rights	
09:37:49	10	activity can or should be stopped, but that can be		09:41:21	10	Division of the Department of Justice?	
09:37:52	11	disheartening to many individuals.		09:41:22	11	A. I was one of the deputy assistant attorneys	
09:37:56	12	There have been reports in the past of		09:41:26	12	general in the division.	
09:38:00	13	individuals standing with weapons outside of polling		09:41:31	13	Q. And to whom did you report?	
09:38:03	14	places even where there is a right to lawfully carry		09:41:33	14	A. To Vanita Gupta, who was first the acting	
09:38:09	15	those weapons. And so where that may not be strictly		09:41:39	15	assistant attorney general for civil rights and then the	
09:38:13	16	unlawful, that can be intimidating in many		09:41:45	16	principal deputy assistant attorney general for civil	
09:38:16	17	circumstances.		09:41:48	17	rights. And ultimately, to the attorney general.	
09:38:20	18	And I'm sure that doesn't exhaust the -- the		09:41:55	18	Q. Was that Loretta Lynch at the time?	
09:38:23	19	range. There are reports of people taking pictures of		09:42:01	19	A. It was.	
09:38:26	20	license plates in parking lots. Even though that		09:42:05	20	Q. When did your secondment end?	
09:38:30	21	activity may be completely lawful, it can be		09:42:09	21	A. Inauguration Day. Rather, the day before	
09:38:34	22	intimidating in some communities for individuals to be		09:42:13	22	Inauguration Day.	
09:38:39	23	roaming parking lots on Election Day taking pictures of		09:42:14	23	Q. The day before Inauguration Day?	
09:38:42	24	license plates.		09:42:18	24	A. 2017.	
09:38:47	25	Q. As national voter protection counsel, did you		09:42:19	25	Q. 2017?	
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09:38:51	1	seek to keep beefy tough guys a certain distance away		09:42:20	1	A. Correct.	
09:38:55	2	from polling places?		09:42:20	2	Q. What were your duties and responsibilities	
09:38:56	3	A. No. At least not where they were otherwise		09:42:23	3	while you were seconded to the Department of Justice?	
09:38:59	4	authorized to be. But it was part of my job to prepare		09:42:27	4	A. I was responsible for supporting and	
09:39:08	5	as best we could within the law in the event that		09:42:33	5	supervising some of the work of the Civil Rights	
09:39:12	6	disturbances or other instances of intimidation should		09:42:41	6	Division, focusing primarily on voting rights and on	
09:39:17	7	happen.		09:42:45	7	employment discrimination. That also necessarily meant	
09:39:19	8	Q. When did you return to the Brennan Center from		09:42:50	8	management of staff and budgetary concerns and other	
09:39:28	9	the Obama campaign?		09:42:55	9	support work, in addition to the substance.	
09:39:33	10	A. It would have been the spring of 2009. I don't		09:43:03	10	Q. And with respect to voting rights, in	
09:39:37	11	recall exactly the month.		09:43:08	11	particular, what initiative, or initiatives, did you	
09:39:43	12	Q. And then after you left the Brennan Center in		09:43:11	12	undertake while you were a justice?	
09:39:46	13	June of 2010, what did you do after that?		09:43:15	13	A. I think that the only thing that I'm able to	
09:39:51	14	A. I became a professor, a faculty member, at		09:43:19	14	say without waiving a privilege that is due to the	
09:39:55	15	Loyola Law School in Los Angeles.		09:43:23	15	department is that -- is the public activity of the	
09:40:01	16	Q. How long did you remain in that role?		09:43:28	16	Civil Rights Division at the time. And there were a	
09:40:06	17	A. I am still in that role.		09:43:31	17	number of cases, a number of filings, a number of policy	
09:40:08	18	Q. You've done some other things in between?		09:43:36	18	documents that came out of the Department of Justice. I	
09:40:10	19	A. I have.		09:43:40	19	can't talk about initiatives we pursued that did not	
09:40:10	20	Q. What have you done in between?		09:43:42	20	become public, and I don't know that I could list you	
09:40:13	21	A. And I should clarify. It wasn't -- it wasn't		09:43:48	21	all of the initiatives we pursued that did become	
09:40:17	22	in between. I was on loan from Loyola; so I was still a		09:43:51	22	public.	
09:40:21	23	faculty member at Loyola while I was seconded,		09:44:01	23	Q. During your tenure at Loyola, what subject or	
09:40:28	24	essentially, to the federal government. In 2015,		09:44:05	24	subject matters have you taught?	
09:40:33	25	pursuant to an intergovernmental agreement, I went to		09:44:08	25	A. I have taught a class on constitutional law --	

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09:44:13	1	several classes on constitutional law. I have taught		10:12:08	1	A. Correct.	
09:44:21	2	classes on criminal procedure. I have taught classes on		10:12:08	2	Q. And you also have a videotape of a discussion	
09:44:26	3	election law and voting rights. While visiting as a		10:12:15	3	of voting law on television involving Mr. Adams; is that	
09:44:36	4	faculty member at other law schools still employed by		10:12:21	4	right?	
09:44:41	5	Loyola Law School, I've taught classes on the motives of		10:12:25	5	A. I honestly don't know if Mr. Adams was part of	
09:44:44	6	public actors and an undergraduate class on essentially		10:12:29	6	that discussion. The -- I can't recall whether he was	
09:45:03	7	introduction to law and law and economics.		10:12:32	7	on the panel or not. He may well have been. I don't	
09:45:16	8	(Telephonic interruption.)		10:12:35	8	remember.	
09:45:17	9	THE WITNESS: I don't think it's for me.		10:12:35	9	Q. Do you remember any of the panelists who were?	
09:45:19	10	MR. LOCKERBY: Why don't we go off the record		10:12:39	10	A. I remember that Tom Fitton was leading the	
09:45:20	11	for a minute.		10:12:43	11	discussion. I remember an individual from Old Dominion	
09:45:22	12	THE VIDEOGRAPHER: We're off the record at		10:12:48	12	University who had conducted a study was on the panel.	
09:45:25	13	9:45 a.m.		10:12:56	13	I'd be guessing at the other members of the panel.	
09:45:26	14	(A recess is taken.)		10:13:00	14	Q. Fair enough.	
10:10:10	15	THE VIDEOGRAPHER: We are back on the record at		10:13:01	15	MR. BRIDGES: Do not guess.	
10:10:13	16	10:10 a.m.		10:13:02	16	BY MR. LOCKERBY:	
10:10:15	17	BY MR. LOCKERBY:		10:13:02	17	Q. And the documents you produced also included	
10:10:17	18	Q. Sorry for the interruption.		10:13:05	18	copies of various reports produced by PILF, in addition	
10:10:19	19	During your career, when did you first become		10:13:12	19	to the ones at issue in this case, the Garden State	
10:10:23	20	familiar with the individual defendant in this case,		10:13:16	20	Gotcha report involving New Jersey and Safe Spaces	
10:10:27	21	J. Christian Adams?		10:13:19	21	involving sanctuary cities; correct?	
10:10:30	22	A. I don't know that I know. I don't recall a		10:13:21	22	A. Correct.	
10:10:39	23	moment.		10:13:22	23	Q. How long have you been following the work of	
10:10:42	24	Q. Do you recall how you became familiar with him?		10:13:27	24	PILF?	
10:10:45	25	A. No. I mean, it -- this is -- it's a relatively		10:13:27	25	A. I don't know that I'd say that I've been	
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10:10:56	1	small sphere and relatively small world, and people		10:13:32	1	following the work of PILF. I have followed some things	
10:11:01	2	become acquainted with other people in it. But I don't		10:13:37	2	that PILF has done. I couldn't tell you how -- I	
10:11:03	3	recall.		10:13:48	3	couldn't tell the first thing that I read or downloaded	
10:11:03	4	Q. What sphere is that?		10:13:50	4	that PILF had done.	
10:11:05	5	A. The sphere of people that work on election law		10:13:51	5	Q. And for what purpose have you been following	
10:11:08	6	and voting rights.		10:13:55	6	PILF's work?	
10:11:10	7	Q. But you did not overlap with Mr. Adams when he		10:13:57	7	MR. BRIDGES: Objection. Misstates testimony.	
10:11:13	8	was at the Civil Rights Division of DOJ?		10:13:58	8	You may answer.	
10:11:16	9	A. I did not.		10:13:59	9	THE WITNESS: Yeah. Again, I wouldn't say that	
10:11:17	10	Q. And you have seen various publications in which		10:14:01	10	I have been following PILF's work. I am interested in	
10:11:24	11	he was critical of things that the Department of Justice		10:14:05	11	election law developments both of law and policy; and so	
10:11:29	12	did during your tenure?		10:14:10	12	I follow some cases and reports concerning election law,	
10:11:31	13	A. Yes.		10:14:17	13	some of PILF's work included.	
10:11:31	14	Q. The two of you don't see eye to eye on some		10:14:19	14	BY MR. LOCKERBY:	
10:11:36	15	issues. That would be fair to say; correct?		10:14:19	15	Q. How long have you been collecting work that	
10:11:38	16	A. On some issues, that's correct.		10:14:23	16	PILF has done either in court or by way of published	
10:11:41	17	Q. Now, the documents that you produced in		10:14:27	17	reports?	
10:11:44	18	response to the subpoenas -- we'll look at those in a		10:14:28	18	A. I couldn't say. I don't remember -- again,	
10:11:48	19	minute -- include a number of publications of PILF that		10:14:32	19	because I'm not following PILF, I don't remember the	
10:11:54	20	you've had your deposition; correct?		10:14:34	20	first thing of theirs that I happened to have saved. I	
10:11:56	21	A. Correct.		10:14:41	21	don't -- I don't consider what I do to be collecting	
10:11:56	22	Q. And you also had in your possession copies of		10:14:43	22	their work. There are occasional reports or cases or	
10:11:58	23	various pleadings that PILF had filed, not just in the		10:14:50	23	briefs that are of interest that I save, sometimes to	
10:12:04	24	case in which you're testifying, but in other		10:14:54	24	read then, sometimes to read later.	
10:12:06	25	litigation; isn't that right?		10:15:00	25	Q. In addition to your teaching responsibilities	

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10:15:04 1	at Loyola, do you do any consulting work?		10:18:36 1	clients or not.	
10:15:07 2	A. I do.		10:18:39 2	Q. But except for the circumstances you've	
10:15:08 3	Q. And do you sometimes represent clients?		10:18:42 3	identified, you would have something in writing, with	
10:15:14 4	A. I do.		10:18:46 4	writing including e-mail, setting forth the scope of the	
10:15:15 5	Q. When you represent a client is there any kind		10:18:51 5	engagement with respect to any clients for which you	
10:15:17 6	of procedure that you go through to represent a client?		10:18:54 6	perform legal services; correct?	
10:15:21 7	A. It depends on the client. It depends on the		10:18:59 7	A. I can't think of another example right now	
10:15:26 8	nature of the representation.		10:19:02 8	where I have not. It's possible.	
10:15:35 9	Q. When you represent a client do you have an		10:19:07 9	Q. Are you admitted to practice in California?	
10:15:39 10	engagement letter?		10:19:09 10	A. I am.	
10:15:48 11	A. I -- I don't believe that I have had an		10:19:10 11	Q. How long have you been admitted to practice in	
10:15:53 12	engagement letter in representing a client since I've		10:19:13 12	California?	
10:15:57 13	been at Loyola. I have had engagement letters in the		10:19:13 13	A. 2003. I don't know the month.	
10:16:03 14	past.		10:19:16 14	Q. Are you admitted to practice in any other	
10:16:03 15	Q. Have you represented a client since --		10:19:18 15	states?	
10:16:06 16	A. I should --		10:19:19 16	A. Yes.	
10:16:06 17	Q. I'm sorry. I didn't mean to cut you off.		10:19:19 17	Q. Where?	
10:16:08 18	A. No. And I'm sorry to interrupt.		10:19:20 18	A. I'm admitted in New York, in New Jersey. I'm	
10:16:11 19	I should amend that. I haven't had what I		10:19:26 19	currently an inactive member of the bar in Washington,	
10:16:14 20	would characterize as a formal engagement letter. I		10:19:33 20	D.C. And I've been admitted to practice before certain	
10:16:17 21	have exchanged e-mails with clients designating the		10:19:36 21	individual tribunals.	
10:16:21 22	scope of the engagement, which might well be construed		10:19:38 22	Q. That would be on a pro hac vice basis?	
10:16:25 23	to be an engagement letter in some circumstances.		10:19:41 23	A. Occasionally pro hac. Sometimes I'm a member	
10:16:28 24	Q. When you represent a client as an attorney, do		10:19:45 24	of the bar of that court.	
10:16:32 25	you at least have some exchange of e-mails setting forth		10:19:48 25	Q. But you're not admitted to the Virginia State	
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10:16:37 1	the scope of the engagement?		10:19:52 1	Bar, are you?	
10:16:39 2	A. Sometimes. Often.		10:19:53 2	A. No, I am not.	
10:16:41 3	Q. Well, would there be any circumstances under		10:19:53 3	Q. And you haven't practiced law in Virginia, have	
10:16:44 4	which you would not have something setting forth the		10:19:57 4	you?	
10:16:47 5	scope of the engagement?		10:19:57 5	A. I have not.	
10:16:49 6	A. Yes.		10:20:03 6	MR. LOCKERBY: I would like to have marked as	
10:16:50 7	Q. What circumstances would those be?		10:20:06 7	exhibits the first three subpoenas. This one will be	
10:16:53 8	A. I have represented some clients on amicus		10:20:12 8	Exhibit 1.	
10:17:06 9	briefs; and although I know I have had e-mail exchanges		10:20:26 9	Would you two mind sharing?	
10:17:13 10	with some of the lead amici, I consider myself to		10:20:36 10	And let's go ahead, while we're at it, have	
10:17:16 11	represent all of the amici; and I don't believe I have		10:20:38 11	this one marked as Exhibit 2, please.	
10:17:19 12	had specific one-on-one e-mail conversations with all of		10:20:57 12	And finally, I'd like to have this marked as	
10:17:22 13	the clients represented in all of those amicus briefs.		10:21:00 13	Exhibit 3, please.	
10:17:26 14	Q. Except for amicus briefs, have you had some		10:21:00 14	(Whereupon the documents referred to are marked	
10:17:29 15	exchange of e-mail or other communications with all of		10:21:00 15	by the reporter as Defense Exhibits 1, 2, and 3 for	
10:17:32 16	the other clients for which you've provided legal		10:21:00 16	identification.)	
10:17:36 17	services setting forth the scope of the engagement?		10:21:00 17	BY MR. LOCKERBY:	
10:17:40 18	A. I don't know. And the reason I don't know is		10:21:18 18	Q. Okay. You've been handed what have been marked	
10:18:03 19	that some of -- some of the relationships I've had where		10:21:21 19	as Exhibits 1, 2, and 3. 1 is a document subpoena. And	
10:18:08 20	I have offered legal services have not been		10:21:41 20	this is directed to you individually. Exhibit 2 is	
10:18:14 21	representations in court. They have been providing, for		10:21:46 21	another document subpoena directed to Loyola Law School.	
10:18:19 22	example, legislative or administrative feedback. And I		10:21:51 22	And then Exhibit 3 is a deposition subpoena.	
10:18:27 23	honestly don't know whether I had an e-mail exchange		10:21:54 23	You were served with all three of these;	
10:18:30 24	describing the scope of the feedback that I offer. And		10:21:56 24	correct?	
10:18:34 25	I don't know whether you would call those individuals		10:21:56 25	A. I was served with two of these.	

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10:22:01 1	Q. With -- so there was one with which you were	10:25:03 1	BY MR. LOCKERBY:				
10:22:05 2	not served; is that right?	10:25:03 2	Q. You've been handed what's been marked as				
10:22:06 3	A. Correct.	10:25:07 3	Exhibit 5, and it says it's a privilege log prepared by				
10:22:06 4	Q. Which one is that?	10:25:13 4	counsel for the Protect Democracy Project and the				
10:22:07 5	A. The subpoena to Loyola Law School.	10:25:18 5	Southern Center for Social Justice Re -- I think that				
10:22:10 6	Q. That was actually served on the law school	10:25:23 6	should say Coalition for Social Justice -- Re				
10:22:12 7	itself or...	10:25:27 7	Third-Party Subpoenas Issued to Professor Justin Levitt				
10:22:13 8	A. That's my understanding.	10:25:30 8	and Loyola Law School.				
10:22:15 9	Q. But in any event, it wasn't served on you?	10:25:33 9	Did you see this before it was served on				
10:22:18 10	A. Correct.	10:25:36 10	defendant's counsel?				
10:22:19 11	Q. And in response to all three subpoenas, you're	10:25:41 11	A. I'm not sure when it was served. I have seen				
10:22:23 12	being represented by counsel for Loyola; is that right?	10:25:44 12	this log.				
10:22:28 13	A. In response to the subpoenas with which I was	10:26:00 13	Q. And we'll be going through some of the				
10:22:31 14	served, I am being represented by counsel for Loyola.	10:26:02 14	individual entries in this log as we get to them and --				
10:22:34 15	Q. And with respect to the document subpoena to	10:26:09 15	in the chronology. But do you have any kind of written				
10:22:38 16	Loyola, Loyola's counsel is representing Loyola?	10:26:16 16	agreement with either the Protect Democracy Project or				
10:22:40 17	MR. BRIDGES: That is correct.	10:26:23 17	the Southern Coalition for Social Justice regarding				
10:22:40 18	MR. LOCKERBY: Okay.	10:26:26 18	representation in this case?				
10:22:42 19	I'd like to have this marked as Exhibit 4,	10:26:38 19	A. I don't know the extent to which e-mails				
10:22:45 20	please.	10:26:42 20	exchanged would manifest a written agreement of that				
10:22:45 21	(Whereupon the document referred to is marked	10:26:46 21	kind, so I don't know if I can answer that question.				
10:22:45 22	by the reporter as Defense Exhibit 4 for	10:26:51 22	Q. So in answer to that question, either you or				
10:22:45 23	identification.)	10:26:55 23	counsel or some neutral third party would have to look				
10:22:45 24	BY MR. LOCKERBY:	10:26:58 24	at the e-mails to see whether they manifest any written				
10:23:06 25	Q. You've been handed what's been marked as	10:27:01 25	agreement; is that right?				
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10:23:09 1	Exhibit 4, which is dated March 29, 2019, setting forth	10:27:04 1	A. I would have to look at the writings to see				
10:23:18 2	objections by both Loyola Law School and you to the	10:27:07 2	whether an -- an agreement were written there, yes.				
10:23:26 3	document subpoenas; and there is a reference in the	10:27:09 3	Q. Do you know anything about the nature of the				
10:23:34 4	objection -- several references to the attorney-client	10:27:22 4	attorney work product claim that is being made by two of				
10:23:38 5	privilege and attorney work product.	10:27:27 5	the law firms representing plaintiffs in this case, the				
10:23:42 6	Are there documents subpoenaed that you contend	10:27:34 6	Protect Democracy Project and the Southern Coalition for				
10:23:50 7	invade an attorney-client privilege that you are	10:27:37 7	Social Justice?				
10:23:55 8	entitled or obligated to assert?	10:27:37 8	MR. BRIDGES: I'm going to object that it's				
10:23:57 9	MR. BRIDGES: Yes.	10:27:38 9	vague and ambiguous. And also, invades the attorney				
10:23:57 10	As his counsel, I'll respond to that because we	10:27:43 10	work product objection that is interposed because I				
10:24:01 11	interposed the objections.	10:27:47 11	think discussing the scope of that project for someone				
10:24:02 12	Yes.	10:27:52 12	who is retained as a nonexpert witness or consultant				
10:24:03 13	MR. LOCKERBY: Okay.	10:27:57 13	would also invade that protection.				
10:24:05 14	BY MR. LOCKERBY:	10:28:01 14	MR. LOCKERBY: So is that an instruction not to				
10:24:05 15	Q. And similarly, are there work product	10:28:03 15	answer, then?				
10:24:09 16	objections that you believe that you can claim	10:28:04 16	MR. BRIDGES: It is.				
10:24:17 17	individually or need to claim on behalf of somebody	10:28:04 17	BY MR. LOCKERBY:				
10:24:20 18	else?	10:28:05 18	Q. Okay. So were you retained as a consultant by				
10:24:20 19	MR. BRIDGES: Yes. Need to claim on behalf of	10:28:14 19	these two law firms?				
10:24:22 20	somebody else.	10:28:26 20	A. Yes.				
10:24:42 21	MR. LOCKERBY: I'd like to have this marked as	10:28:28 21	Q. When did that happen?				
10:24:44 22	Exhibit 5, please.	10:28:30 22	A. I don't recall the date.				
10:24:44 23	(Whereupon the document referred to is marked	10:28:39 23	Q. So it could have been before or after June 27,				
10:24:44 24	by the reporter as Defense Exhibit 5 for	10:28:46 24	2017, the first date that appears on the privilege log				
10:25:03 25	identification.)	10:28:48 25	that's been marked as Exhibit 5?				

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10:28:50 1	A. Correct.		10:32:36 1	of entries beginning with March 17, 2019; and all of	
10:28:53 2	Q. And you don't know whether that retention is		10:32:45 2	those communications were with the Bridges law firm in	
10:28:56 3	reflected in writing anywhere?		10:32:52 3	connection with the subpoena; is that right?	
10:28:58 4	A. I do not.		10:32:53 4	A. Correct.	
10:29:00 5	Q. And who approached whom about the retention?		10:32:56 5	And I realize now that I should amend a	
10:29:04 6	Did you approach these two law firms, or did they		10:32:59 6	previous answer. I have seen this privilege log.	
10:29:08 7	approach you?		10:33:03 7	MR. BRIDGES: Referring to Exhibit 6.	
10:29:10 8	A. We were in conversation, and so I don't know		10:33:04 8	THE WITNESS: Sorry. Pardon me. Referring to	
10:29:17 9	that I can say who approached whom.		10:33:06 9	Exhibit 6. I don't know whether I have previously seen	
10:29:21 10	Q. In fact -- let me strike that.		10:33:09 10	Exhibit 5.	
10:29:28 11	As of the time that you were first in		10:33:17 11	MR. LOCKERBY: And if you turn -- since this	
10:29:33 12	conversation, as you put it, was the anticipation that		10:33:19 12	isn't numbered, it's easier just to count from the back,	
10:29:40 13	there would be litigation filed against the defendants		10:33:23 13	the fourth page from the end.	
10:29:42 14	in this case?		10:33:27 14	MR. BRIDGES: Of Exhibit 6?	
10:29:47 15	A. I think the anticipation was that there might		10:33:29 15	MR. LOCKERBY: Of Exhibit 6, yes.	
10:29:50 16	be, yes.		10:33:33 16	BY MR. LOCKERBY:	
10:29:51 17	Q. And, in fact, that's something that, according		10:33:33 17	Q. Starting under the September 29, 2018, entry	
10:29:54 18	to documents you produced in this litigation, you were		10:33:38 18	for communication between Justin Levitt and Allison	
10:29:58 19	trying to convince the Protect Democracy Project and the		10:33:42 19	Riggs, there are a series of names. On the bottom of	
10:30:03 20	Southern Coalition for Social Justice to do; isn't that		10:33:49 20	that page, the first entry is August 5th, 2017, for	
10:30:07 21	right?		10:33:54 21	Augustine Tsibi-Gyan. I may be butchering the name,	
10:30:07 22	A. I don't know that I would agree with that		10:34:00 22	but -- and then continuing on the following page and	
10:30:10 23	characterization, no.		10:34:05 23	ending on the page after that on August 10, 2017.	
10:30:11 24	Q. Would you agree with that characterization if		10:34:11 24	Are all of these communications with	
10:30:14 25	you saw that in something that you wrote?		10:34:13 25	individuals that you contend are clients of yours?	
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10:30:18 1	MR. BRIDGES: Objection. Argumentative.		10:34:20 1	A. No.	
10:30:19 2	You may answer.		10:34:34 2	Q. So were any of these individuals clients of	
10:30:22 3	THE WITNESS: Possibly.		10:34:37 3	yours?	
10:30:33 4	BY MR. LOCKERBY:		10:34:37 4	A. They may have believed so.	
10:30:34 5	Q. Without divulging the substance of any		10:34:38 5	Q. Did you lead them to believe that they were	
10:30:38 6	communications, can you state what it is that you were		10:34:41 6	clients of yours?	
10:30:44 7	retained to do as a nonexpert witness or consultant?		10:34:42 7	A. Not intentionally.	
10:30:54 8	A. I don't know that I can without divulging the		10:34:45 8	Q. What causes you to state that they may have	
10:31:04 9	substance of the communications.		10:34:50 9	believed they were clients of yours?	
10:31:05 10	Q. Are you being compensated or have you been		10:34:52 10	A. I wrote to them and identified myself as a	
10:31:07 11	compensated for your consulting work?		10:35:00 11	lawyer and a law professor. And in the course of the	
10:31:12 12	A. I have not. I am not. I should clarify: In		10:35:11 12	conversation, they may have sought legal assistance.	
10:31:20 13	this case.		10:35:17 13	And beyond that, I don't know in what capacity they	
10:31:35 14	MR. LOCKERBY: We'll come back to that later.		10:35:20 14	thought I was acting.	
10:31:38 15	Meanwhile, I'd like to have marked as Exhibit 6		10:35:22 15	Q. Since receiving the subpoenas from the	
10:31:44 16	the privilege log for subpoenas to Loyola Law School and		10:35:27 16	defendants in this case, have you contacted any of these	
10:31:49 17	Justin Levitt.		10:35:31 17	individuals to see whether they thought that you had an	
10:31:49 18	(Whereupon the document referred to is marked		10:35:36 18	attorney-client relationship?	
10:31:49 19	by the reporter as Defense Exhibit 6 for		10:35:36 19	A. I have not.	
10:31:49 20	identification.)		10:35:37 20	Q. And did you provide any legal advice to any of	
10:31:49 21	BY MR. LOCKERBY:		10:35:44 21	these individuals?	
10:32:11 22	Q. You've been handed what's been marked as		10:35:51 22	MR. BRIDGES: I'm going to object. That's	
10:32:13 23	Exhibit 6, a privilege log for subpoenas to Loyola Law		10:35:52 23	vague and ambiguous.	
10:32:17 24	School and Justin Levitt. And if you could turn to the		10:35:53 24	You may answer, if you understand.	
10:32:25 25	next-to-last page toward the bottom. There are a series		10:36:03 25	THE WITNESS: Can you clarify what you mean by	

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10:36:05 1	"legal advice."			10:38:57 1	their potential legal remedies might be?		
10:36:06 2	BY MR. LOCKERBY:			10:38:59 2	A. In some ways.		
10:36:06 3	Q. Well, on the privilege log every single entry			10:39:01 3	Q. And at the time that you did these things, you		
10:36:10 4	says, "Communication Re Legal Advice." So as that term			10:39:07 4	had identified yourself to these individuals as a		
10:36:14 5	is used on the privilege log, were you providing legal			10:39:11 5	professor who was doing research; isn't that right?		
10:36:19 6	advice?			10:39:13 6	A. Correct.		
10:36:19 7	MR. BRIDGES: Okay. On that I'm going to			10:39:14 7	Q. So how is it that somebody would expect that he		
10:36:21 8	object. And I'm going to respond because, again, my			10:39:28 8	or she would have a -- an attorney-client relationship		
10:36:24 9	firm interposed that objection. And if you want to know			10:39:31 9	with a law professor in California doing research?		
10:36:27 10	why that objection was interposed, I will respond. But			10:39:35 10	MR. BRIDGES: Objection. Calls for		
10:36:32 11	the objection was interposed by counsel, not by the			10:39:36 11	speculation.		
10:36:35 12	client. So this is not a question about which			10:39:40 12	THE WITNESS: I would have said the same thing.		
10:36:40 13	Mr. Levitt would have relevant information.			10:39:41 13	I don't know what they anticipated or what they might		
10:36:40 14	BY MR. LOCKERBY:			10:39:45 14	have thought.		
10:36:46 15	Q. Mr. Levitt, you have a law degree from Harvard.			10:39:45 15	BY MR. LOCKERBY:		
10:36:49 16	A. Uh-huh.			10:39:46 16	Q. And you're simply speculating that these		
10:36:50 17	Q. You've been a professor of law at Loyola. Been			10:39:49 17	individuals might have considered the conversation to be		
10:36:53 18	practicing law for decades now.			10:39:55 18	privileged and confidential; isn't that right?		
10:36:54 19	A. Correct.			10:39:57 19	A. I consider it possible. I -- I'm not		
10:36:55 20	Q. You understand what it means to render legal			10:40:03 20	speculating that they considered it confidential. I do		
10:36:57 21	advice, don't you?			10:40:09 21	not know whether they would have been able to evaluate		
10:36:57 22	A. I do.			10:40:11 22	whether it was privileged.		
10:36:58 23	Q. And regardless of who prepared the privilege			10:40:12 23	Q. And not every communication that's confidential		
10:37:03 24	log, the question is a simple one. Did you provide			10:40:16 24	is for the purpose of seeking legal advice; isn't that		
10:37:07 25	legal advice to any of the individuals named on this			10:40:16 25	right?		

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10:42:36 1	MR. BRIDGES: Objection. That invades the	10:45:09 1	A. Correct.				
10:42:39 2	attorney-client privilege as to what the scope of those	10:45:09 2	Q. The very first provision has a defense of -- or				
10:42:42 3	conversations may have been. For the same reason we've	10:45:17 3	definition, rather, of "barratry"?				
10:42:45 4	interposed that objection, I interpose it here.	10:45:20 4	A. Uh-huh.				
10:42:48 5	And instruct you not to answer that question as	10:45:20 5	Q. Is that a term with which you're familiar?				
10:42:49 6	phrased.	10:45:23 6	A. Yes.				
10:42:56 7	BY MR. LOCKERBY:	10:45:24 7	Q. What's your understanding of what barratry is?				
10:42:56 8	Q. And I assume you're following that instruction?	10:45:27 8	A. Barratry is often defined as I see that it is				
10:42:58 9	A. I will follow the instruction of my counsel.	10:45:30 9	defined here. It is a purported restriction on, as it				
10:43:00 10	MR. LOCKERBY: I'd like to have this marked as	10:45:40 10	says here, stirring up or fomenting litigation.				
10:43:02 11	Exhibit 7, please.	10:45:58 11	MR. LOCKERBY: I'd like to have this marked as				
10:43:02 12	(Whereupon the document referred to is marked	10:46:01 12	Exhibit 9, please.				
10:43:02 13	by the reporter as Defense Exhibit 7 for	10:46:01 13	(Whereupon the document referred to is marked				
10:43:16 14	identification.)	10:46:01 14	by the reporter as Defense Exhibit 9 for				
10:43:16 15	THE WITNESS: Thank you.	10:46:18 15	identification.)				
10:43:16 16	BY MR. LOCKERBY:	10:46:18 16	THE WITNESS: Thank you.				
10:43:19 17	Q. You've been handed what's been marked as	10:46:19 17	BY MR. LOCKERBY:				
10:43:22 18	Exhibit 7, a copy of Virginia Code Section 8.01-223.2.	10:46:25 18	Q. You've been handed what's been marked as				
10:43:33 19	Have you ever reviewed this provision of the	10:46:27 19	Exhibit 9, a copy of Virginia Code Section 18.2-499.				
10:43:35 20	code of Virginia?	10:46:36 20	Have you ever seen this provision of the				
10:43:36 21	A. I have not.	10:46:40 21	Virginia code?				
10:43:37 22	Q. Are you familiar with the term "SLAPP statute"	10:46:41 22	A. I have not.				
10:43:45 23	or "anti-SLAPP statute"?	10:46:48 23	MR. LOCKERBY: I'd like to have this marked as				
10:43:47 24	A. I am.	10:46:50 24	Exhibit 10, please.				
10:43:49 25	Q. What's your understanding of what that is?	10:46:50 25	///				
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10:43:51 1	A. SLAPP generally describes a strategic lawsuit	10:46:50 1	(Whereupon the document referred to is marked				
10:43:56 2	against public participation. I believe that's the	10:46:50 2	by the reporter as Defense Exhibit 10 for				
10:43:58 3	acronym. And it is a lawsuit filed often in order to	10:47:05 3	identification.)				
10:44:06 4	deter civic participation on matters of public	10:47:05 4	THE WITNESS: Thank you.				
10:44:09 5	importance. Anti-SLAPP statutes occasionally provide	10:47:06 5	BY MR. LOCKERBY:				
10:44:15 6	sometimes immunity, sometimes particular procedural	10:47:09 6	Q. You've been handed what's been marked as				
10:44:20 7	venues, or -- or pathways to address those sorts of	10:47:11 7	Exhibit 10, a copy of Virginia Code Section 18.2-500.				
10:44:25 8	claims.	10:47:19 8	Have you ever seen this provision of the				
10:44:26 9	MR. LOCKERBY: I'd like to have this marked as	10:47:22 9	Virginia code?				
10:44:28 10	Exhibit 8, please.	10:47:23 10	A. I have not.				
10:44:28 11	(Whereupon the document referred to is marked	10:47:42 11	MR. LOCKERBY: I'd like to have this marked as				
10:44:28 12	by the reporter as Defense Exhibit 8 for	10:47:43 12	Exhibit 11, please.				
10:44:38 13	identification.)	10:47:43 13	(Whereupon the document referred to is marked				
10:44:38 14	MR. BRIDGES: Oh, I'm sorry.	10:47:43 14	by the reporter as Defense Exhibit 11 for				
10:44:39 15	MR. LOCKERBY: That's all right.	10:47:58 15	identification.)				
10:44:40 16	MR. BRIDGES: Thank you.	10:47:58 16	THE WITNESS: Thank you.				
10:44:49 17	THE WITNESS: Thank you.	10:47:59 17	BY MR. LOCKERBY:				
10:44:50 18	BY MR. LOCKERBY:	10:48:04 18	Q. You've been handed what's been marked as				
10:44:52 19	Q. You've been handed what's been marked as	10:48:07 19	Exhibit 11, which is an October 17, 2008, letter to the				
10:44:54 20	Exhibit 8, which is copy of Virginia Code Section	10:48:17 20	Attorney General of the United States and the acting				
10:45:00 21	18.2-451.	10:48:20 21	U.S. Attorney for the District of Connecticut from				
10:45:03 22	Are you familiar with this provision of the	10:48:23 22	Robert F. Bauer.				
10:45:04 23	code of Virginia?	10:48:25 23	Why don't you take a minute, please, to look at				
10:45:06 24	A. I am not.	10:48:27 24	this. I realize this isn't from you. And then I'll				
10:45:06 25	Q. So it's not something you've seen before?	10:48:30 25	have a few questions about it.				

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10:48:32 1	A. Okay.		10:53:05 1	aware before the letter was written. I became aware	
10:50:45 2	Q. Have you ever seen this correspondence before?		10:53:08 2	afterward, yes.	
10:50:48 3	A. Not that I know of.		10:53:15 3	BY MR. LOCKERBY:	
10:50:49 4	Q. Did you have any role in drafting this		10:53:15 4	Q. Did you ever discuss that request with anybody	
10:50:53 5	correspondence?		10:53:19 5	else?	
10:50:53 6	A. Not to my recollection.		10:53:30 6	A. I don't know whether I can answer that without	
10:50:57 7	Q. Mr. Bauer was the outside general counsel of		10:53:33 7	invading a privilege that, again, I can't waive between	
10:51:04 8	the Obama campaign during the time that you were		10:53:36 8	the organization and myself. Externally, I don't recall	
10:51:07 9	national voter protection counsel; correct?		10:53:51 9	whether I have discussed that call for a further	
10:51:09 10	A. Correct.		10:53:58 10	investigation with individuals outside of those to whom	
10:51:09 11	Q. Were you aware that he had requested an		10:54:03 11	I owe an attorney-client privilege.	
10:51:17 12	investigation of -- and I'm quoting now from Page 2 --		10:54:18 12	MR. LOCKERBY: I'd like to have this marked as	
10:51:23 13	"the systematic development and dissemination of		10:54:20 13	Exhibit 12, please.	
10:51:27 14	unsupported spurious allegations of vote fraud"?		10:54:20 14	(Whereupon the document referred to is marked	
10:51:30 15	MR. BRIDGES: Objection. Vague and ambiguous		10:54:20 15	by the reporter as Defense Exhibit 12 for	
10:51:31 16	as to time.		10:54:36 16	identification.)	
10:51:33 17	MR. LEBOWITZ: Join the objection.		10:54:36 17	THE WITNESS: Thank you.	
10:51:35 18	MR. GORMAN: Can we have an agreement that an		10:54:50 18	BY MR. LOCKERBY:	
10:51:38 19	objection for one is good for all so we don't keep		10:54:51 19	Q. Exhibit 12 is a publication by J. Christian	
10:51:41 20	repeating ourselves?		10:54:57 20	Adams dated June 4, 2013, in the PJMedia.com entitled	
10:51:42 21	MR. LOCKERBY: We do. Although I would say		10:55:06 21	"White House Counsel Robert Bauer, Architect of IRS	
10:51:43 22	that plaintiff's -- counsel for plaintiff's counsel is		10:55:11 22	Abuse," question mark.	
10:51:49 23	entitled to object only with respect to claims of work		10:55:12 23	And on Page 3, top of the page, Mr. Adams	
10:51:53 24	product.		10:55:23 24	writes, "During the 2008 election, while representing	
10:51:55 25	MR. GORMAN: To the extent an objection is not		10:55:27 25	the Obama campaign, Bauer sent a threatening letter to	
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10:51:58 1	applicable to us, I mean --		10:55:31 1	the justice department demanding criminal investigations	
10:52:00 2	MR. LOCKERBY: Yes.		10:55:34 2	of people who had the audacity to speak" -- and the word	
10:52:01 3	MR. GORMAN: -- it wouldn't apply. Sure. But		10:55:39 3	"speak" is italicized -- "about voter fraud. Bauer even	
10:52:02 4	I don't want to keep repeating everybody. I just want		10:55:43 4	singled out Sarah Palin in the letter. Anyone who	
10:52:05 5	to make sure all the objections are preserved.		10:55:46 5	'developed or disseminated' information about voter	
10:52:07 6	MR. LEBOWITZ: I appreciate that.		10:55:50 6	fraud to Bauer deserved the heavy boot of a criminal	
10:52:08 7	MR. LOCKERBY: But we don't agree that -- I		10:55:53 7	investigation. Read the letter. It reveals a nasty,	
10:52:09 8	mean, certainly -- we can stipulate that you're part of		10:55:57 8	thuggish, and lawless attitude towards political	
10:52:12 9	the amen chorus, but we don't agree that you have		10:56:02 9	opposition."	
10:52:16 10	standing to object to anything except with respect to		10:56:02 10	Have you ever read this particular article by	
10:52:19 11	the assertion by two of the law firms of work product.		10:56:04 11	Mr. Adams before?	
10:52:24 12	But if we have the stipulation, I suppose it doesn't		10:56:05 12	A. I don't believe that I have.	
10:52:26 13	matter.		10:56:07 13	Q. Did you agree with Mr. Bauer that those who	
10:52:29 14	THE WITNESS: Can I ask for the question again,		10:56:14 14	made the claim of voter fraud during the 2008 election	
10:52:31 15	please.		10:56:19 15	should be investigated by the justice department?	
10:52:33 16	MR. LOCKERBY: Yes.		10:56:22 16	A. I don't believe that that's Mr. Bauer's	
10:52:34 17	If you could read it back, please.		10:56:27 17	claim -- that's not how I would characterize Mr. Bauer's	
10:52:35 18	(The record is read by the reporter as		10:56:31 18	statement in his letter, and so I can't say whether I	
10:52:35 19	follows:		10:56:34 19	agree or disagree with that characterization.	
10:51:11 20	"Q. Were you aware that he had requested an		10:56:37 20	Q. Did you agree with the request, or requests,	
10:51:17 21	investigation of -- and I'm quoting now from		10:56:48 21	that Mr. Bauer was making in the letter that was marked	
10:51:21 22	Page 2 -- 'the systematic development and		10:56:54 22	as Exhibit 11 to your deposition?	
10:51:26 23	dissemination of unsupported spurious		10:57:18 23	A. I can't say whether I agreed with it at the	
10:51:29 24	allegations of vote fraud?"")		10:57:21 24	time because, again, I don't know whether I saw this	
10:53:02 25	THE WITNESS: I don't recall whether I was		10:57:23 25	before it was produced. I would agree with part of it	

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10:57:30 1	now.		10:59:58 1	BY MR. LOCKERBY:	
10:57:36 2	Q. Which part of it would you agree with?		10:59:58 2	Q. -- conspiring with others to intimidate	
10:57:39 3	A. Involvement by justice department officials in		11:00:02 3	individuals?	
10:57:44 4	supporting partisan political campaign activity. I		11:00:02 4	MR. BRIDGES: Objection. Calls for	
10:57:49 5	would agree with a call for an investigation into the		11:00:03 5	speculation.	
10:57:52 6	use of federal government resources to support partisan		11:00:04 6	BY MR. LOCKERBY:	
10:57:57 7	campaign activity.		11:00:05 7	Q. Okay. Well, subject to the objection, you can	
10:57:58 8	Q. Would you agree with investigating people who		11:00:06 8	answer.	
10:58:02 9	make allegations of voter fraud?		11:00:06 9	A. It's highly context-specific, and I don't know	
10:58:05 10	A. It would depend on the context.		11:00:10 10	that I can answer that in the abstract.	
10:58:07 11	Q. Well, under what circumstances would you		11:00:12 11	Q. So it's like the classic definition of	
10:58:09 12	advocate criminal investigations of people who allege		11:00:14 12	pornography. You know it when you see it, but you can't	
10:58:14 13	that there's been voter fraud?		11:00:19 13	articulate a principled standard?	
10:58:16 14	A. If the allegations themselves amounted to		11:00:21 14	MR. BRIDGES: Objection. Argumentative.	
10:58:19 15	potential crimes, then I would support an investigation		11:00:23 15	MR. LEBOWITZ: Mischaracterizes testimony.	
10:58:24 16	of those potential crimes.		11:00:25 16	THE WITNESS: That's not what I said.	
10:58:25 17	Q. Under what circumstances do you contend that		11:00:26 17	The investigation into criminal intent depends	
10:58:28 18	alleging voter fraud would constitute a crime?		11:00:30 18	on the facts and circumstances of any given case. It's	
10:58:32 19	A. If the allegations were undertaken with a		11:00:35 19	not -- it is not merely a matter of knowing it when you	
10:58:42 20	specific intent conspiring with others to intimidate		11:00:40 20	see it, but the context actually would set the	
10:58:48 21	individuals from exercising their own First Amendment		11:00:42 21	parameters for an investigation. All that said, I'm not	
10:58:53 22	rights, that would be a conspiracy under the Federal		11:00:48 22	a criminal prosecutor and -- nor am I a federal criminal	
10:58:56 23	Criminal Code; and I would support an investigation into		11:00:55 23	investigating agent.	
10:58:59 24	such conspiracy.		11:01:09 24	BY MR. LOCKERBY:	
10:59:00 25	Q. And how would you go about determining whether		11:01:10 25	Q. Now, during the Obama administration, John	
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10:59:04 1	someone had the specific intent to which you've		11:01:16 1	Christian Adams and Hans von Spakovsky wrote a series of	
10:59:07 2	referred?		11:01:23 2	articles critical of the voting rights section at the	
10:59:08 3	MR. LEBOWITZ: Objection. Calls for		11:01:26 3	Department of Justice; isn't that right?	
10:59:09 4	speculation.		11:01:29 4	A. Of the voting section?	
10:59:11 5	THE WITNESS: Yeah. That's --		11:01:30 5	Q. The voting section.	
10:59:12 6	MR. BRIDGES: Join.		11:01:31 6	A. I would agree with that characterization, yes.	
10:59:13 7	THE WITNESS: That's a hypothetical question.		11:01:36 7	Q. And you saw at least some of those	
10:59:14 8	I -- I don't know that I can answer in the abstract.		11:01:39 8	publications, did you not?	
10:59:18 9	BY MR. LOCKERBY:		11:01:39 9	A. Correct.	
10:59:19 10	Q. Your testimony -- I asked you, "Under what		11:01:40 10	Q. And are you familiar with Mr. von Spakovsky?	
10:59:21 11	circumstances do you contend that alleging voter fraud		11:03:01 11	A. Yes.	
10:59:24 12	would constitute a crime?"		11:03:01 12	Q. How are you familiar with him?	
10:59:26 13	A. Uh-huh.		11:03:04 13	A. He also works in the election field. He's held	
10:59:27 14	Q. And your answer was, "If the allegations were		11:03:10 14	various positions, including government positions --	
10:59:30 15	undertaken with a specific intent conspiring with others		11:03:12 15	government positions, at various times.	
10:59:34 16	to intimidate individuals from exercising their own		11:03:16 16	Q. And is it fair to say that you don't -- you	
10:59:39 17	First Amendment rights, that would be a conspiracy under		11:03:25 17	don't agree with Mr. Spakovsky on a number of issues	
10:59:43 18	the Federal Criminal Code; and I would support an		11:03:28 18	related to election law?	
10:59:47 19	investigation into such conspiracy."		11:03:29 19	A. On a number of issues. That's correct. On	
10:59:48 20	So my question was, How would -- would you go		11:03:34 20	some others, we agree.	
10:59:51 21	about determining whether someone had a specific		11:03:38 21	Q. On what subjects do you agree with Mr. von	
10:59:54 22	intent --		11:03:43 22	Spakovsky?	
10:59:57 23	MR. BRIDGES: Objection. That calls for		11:03:43 23	A. I couldn't give you a complete list. I'm not	
10:59:58 24	speculation.		11:03:45 24	sure that I know all of his positions. I know that he	
10:59:58 25	///		11:03:50 25	correctly feels very strongly about the rights of	

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11:03:52 1	military and overseas voters. I share his concerns. Or		11:07:39 1	A. I -- I wouldn't agree with that	
11:03:58 2	I share -- I shouldn't say that. I share some of the		11:07:41 2	characterization. It's the Every Single One series that	
11:04:00 3	concerns that he's previously articulated that I know		11:07:44 3	is mentioned in the first sentence.	
11:04:04 4	of.		11:07:46 4	Q. I was quoting. I wasn't characterizing.	
11:04:09 5	MR. LOCKERBY: I've like to have this marked as		11:07:48 5	A. Yeah. I -- I wouldn't -- when you say, "that's	
11:04:13 6	Exhibit 13, please.		11:07:54 6	the," those aren't words that I would use. I am	
11:04:13 7	(Whereupon the document referred to is marked		11:07:58 7	familiar with PJ Media based on the Every Single One	
11:04:13 8	by the reporter as Defense Exhibit 13 for		11:08:00 8	series.	
11:04:13 9	identification.)		11:08:04 9	Q. Have you seen the discovery request that the	
11:04:13 10	BY MR. LOCKERBY:		11:08:07 10	plaintiffs have served on defendants in this case?	
11:04:40 11	Q. Exhibit 13 is a February 5, 2015, PJ Media		11:08:10 11	A. I have not.	
11:04:48 12	article by J. Christian Adams on the subject "Obama and		11:08:11 12	Q. Okay. Were you aware of the fact that they	
11:04:53 13	Holder Cry Wolf on Voting Rights."		11:08:13 13	specifically reference PJ Media?	
11:04:57 14	Have you ever seen this before?		11:08:16 14	A. I was not.	
11:04:58 15	A. I can't recall. It's possible.		11:08:34 15	Q. Are you familiar with an individual named	
11:05:09 16	Q. As of the date of this particular article, had		11:08:37 16	Richard Hasen, H-a-s-e-n?	
11:05:15 17	you begun your secondment at DOJ yet?		11:08:41 17	A. Hasen is how --	
11:05:19 18	A. I had not.		11:08:41 18	Q. Hasen.	
11:05:20 19	Q. So this one was before your tenure?		11:08:43 19	A. -- he pronounces his name.	
11:05:22 20	A. Correct.		11:08:45 20	Q. Excuse me.	
11:05:38 21	MR. LOCKERBY: I'd like to have this marked as		11:08:46 21	A. Yes.	
11:05:39 22	Exhibit 14, please.		11:08:46 22	Q. How do you know him?	
11:05:39 23	(Whereupon the document referred to is marked		11:08:47 23	A. He was a colleague at Loyola Law School. I	
11:05:39 24	by the reporter as Defense Exhibit 14 for		11:08:50 24	don't recall when I first became aware of him either,	
11:05:56 25	identification.)		11:08:54 25	but he's also an individual in the election and voting	
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11:05:56 1	THE WITNESS: Thank you.		11:08:57 1	rights field.	
11:06:04 2	BY MR. LOCKERBY:		11:08:59 2	Q. Other than at Loyola, have you worked with him	
11:06:05 3	Q. Exhibit 14 is an April 6, 2016, article by Hans		11:09:04 3	anywhere else?	
11:06:14 4	von Spakovsky and J. Christian Adams, again, in PJ		11:09:07 4	A. No. I have assisted him with various things,	
11:06:20 5	Media, entitled "Exclusive: Meet the Radical Lawyers		11:09:13 5	but I would not say I have worked with him outside of	
11:06:23 6	the DOJ Hired to Oversee Elections."		11:09:16 6	Loyola.	
11:06:26 7	Have you seen this article before?		11:09:19 7	Q. What types of things have you assisted him	
11:06:27 8	A. I have.		11:09:22 8	with?	
11:06:29 9	Q. Were you happy about it?		11:09:24 9	A. Manuscripts and the like. Faculty members	
11:06:37 10	A. No.		11:09:29 10	generally read and provide comment on various	
11:06:50 11	Q. And had you previously been familiar with the		11:09:34 11	publications before they're published. I have also	
11:06:54 12	publication PJ Media?		11:09:42 12	assisted him with a blog that he runs from time to time.	
11:06:56 13	A. Yes.		11:09:45 13	He's asked me if I would maintain the blog in periods	
11:06:56 14	Q. How were you familiar with it?		11:09:48 14	when he's away or otherwise engaged.	
11:06:59 15	A. I can't recall when I first became familiar		11:10:26 15	Q. Have you seen articles that Mr. Adams has	
11:07:04 16	with it.		11:10:30 16	published critical of Mr. Hasen?	
11:07:07 17	Among other things, the first sentence of this		11:10:34 17	A. Yes.	
11:07:12 18	piece refers to a prior series published in PJ Media		11:10:34 18	Q. And you weren't happy about those either, were	
11:07:16 19	which I'm also aware of. I don't recall whether I was		11:10:38 19	you?	
11:07:20 20	familiar with them before that series or not. I may		11:10:38 20	MR. LEBOWITZ: Objection.	
11:07:24 21	well have been.		11:10:39 21	MR. BRIDGES: Objection. Vague and ambiguous.	
11:07:25 22	Q. That's the reference to the, quote, Hiring of		11:10:42 22	THE WITNESS: I'd have to see the articles.	
11:07:30 23	ideologically leftist and partisan lawyers to fill the		11:11:02 23	MR. LOCKERBY: I'd like to have this marked as	
11:07:34 24	career ranks of the lawyers in the Department of		11:11:04 24	Exhibit 15, please.	
11:07:37 25	Justice's civil rights division?		11:11:04 25	///	

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11:11:04 1		(Whereupon the document referred to is marked	11:15:19 1	voted in 1998, 1999, 2000, 2002, 2003, 2004, 2005, 2006,	
11:11:04 2		by the reporter as Defense Exhibit 15 for	11:15:32 2	and 2008? Do you see that?	
11:11:23 3		identification.)	11:15:35 3	A. I see that's reflected here, yes.	
11:11:23 4		THE WITNESS: Thank you.	11:15:37 4	Q. And how did this document or documents like	
11:11:24 5		BY MR. LOCKERBY:	11:15:41 5	this come into your possession?	
11:11:32 6		Q. Exhibit 15 is another article published by	11:15:43 6	A. I don't recall. I would be guessing, and I	
11:11:36 7		Mr. Adams and PJ Media, this one dated October 5, 2015,	11:15:51 7	don't --	
11:11:43 8		entitled "Former DOJ Head Michael Mukasey Hits Obama's	11:15:51 8	MR. BRIDGES: Do not guess.	
11:11:48 9		DOJ Voting Section."	11:15:52 9	THE WITNESS: -- want to guess.	
11:11:50 10		Did you see this at the time it was published?	11:16:04 10	I don't remember reviewing this document in	
11:11:54 11		A. I can't remember. It's possible.	11:16:06 11	particular -- the substance of this document in	
11:12:01 12		Q. And this was published during your tenure at	11:16:11 12	preparing this production. And so I can only offer an	
11:12:05 13		DOJ during the time that you were on secondment;	11:16:19 13	assumption as to where it is, but that's -- I don't want	
11:12:05 14		correct?	11:16:22 14	to guess, so I don't know.	
11:12:10 15		A. Correct.	11:16:23 15	BY MR. LOCKERBY:	
11:13:06 16		MR. LOCKERBY: I'd like to have this marked as	11:16:27 16	Q. But, in fact, you have a number of other	
11:13:08 17		Exhibit 16, please.	11:16:29 17	documents like this in your possession; correct?	
11:13:08 18		(Whereupon the document referred to is marked	11:16:33 18	A. It depends on what you mean by "like this." So	
11:13:08 19		by the reporter as Defense Exhibit 16 for	11:16:36 19	I have a number of different election records, but they	
11:13:25 20		identification.)	11:16:39 20	reflect different things.	
11:13:25 21		THE WITNESS: Thank you.	11:16:57 21	Q. Have you ever written any articles about the	
11:13:27 22		MR. LOCKERBY: Exhibit 16 is a document that	11:16:59 22	extent to which records like the one that's been marked	
11:13:28 23		you've produced.	11:17:04 23	as Exhibit 16 reflect noncitizen voting in California or	
11:13:30 24		And just for the record, when we got the	11:17:09 24	any other jurisdiction?	
11:13:32 25		documents -- the document production on behalf of Loyola	11:17:11 25	MR. LEBOWITZ: Objection. Vague. Compound.	
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11:13:36 1		and you, the documents were not numbered; and they were	11:17:14 1	MR. BRIDGES: Join.	
11:13:40 2		all PDFs; and so we've applied numbers to them.	11:17:18 2	THE WITNESS: I have written pieces, including	
11:13:45 3		Although, apparently, it's possible only to apply one	11:17:20 3	information about some noncitizen voting, including in	
11:13:48 4		number to a PDF; so there's some fairly lengthy PDFs	11:17:24 4	California. I don't -- I would have to look at my	
11:13:53 5		with only one number. But I'll identify them for the	11:17:30 5	publications to see whether I've referenced particular	
11:13:57 6		record, and then I'll have a paralegal circulate a	11:17:32 6	records like this one.	
11:14:01 7		numbered set so everybody has those so it would be	11:17:34 7	BY MR. LOCKERBY:	
11:14:03 8		somewhat easier to work with.	11:17:35 8	Q. Do you contend that noncitizen voting is a	
11:14:03 9		BY MR. LOCKERBY:	11:17:37 9	myth?	
11:14:05 10		Q. But in any event, the prefix that says	11:17:40 10	A. The fact that -- I contend it exists. It is --	
11:14:12 11		F-L-I-P-R-O-D and then L-E-V-L-O-Y followed by numbers	11:17:50 11	allegations of noncitizen voting are often exaggerated.	
11:14:17 12		indicates that this was among the documents that you	11:17:54 12	And so the extent of claimed noncitizen voting may well	
11:14:19 13		produced.	11:17:59 13	be. I don't contend that noncitizen voting itself is a	
11:14:20 14		Now, this particular one is from June 19, 2013,	11:18:03 14	myth.	
11:14:28 15		County of San Diego registrar of voters. And do you see	11:18:04 15	Q. If a member of the general public wanted to get	
11:14:34 16		that this correspondence refers to cancelation of an	11:18:08 16	a copy of the document that's been marked as Exhibit 16,	
11:14:38 17		individual's voter registration in San Diego County?	11:18:13 17	how would he or she go about doing that?	
11:14:43 18		A. It -- it appears to, yes.	11:18:16 18	MR. BRIDGES: Objection. Calls for	
11:14:46 19		Q. And according to this correspondence, the	11:18:18 19	speculation.	
11:14:54 20		individual registered to vote in 1998 but was not a	11:18:23 20	THE WITNESS: Yeah. I don't know. It may be	
11:15:01 21		citizen and had his voter registration canceled on June	11:18:34 21	that this is a public record under California law; and	
11:15:10 22		19, 2013, on the basis of noncitizenship.	11:18:39 22	it may be that it would be available for FOIA or the	
11:15:13 23		Do you see that?	11:18:47 23	state equivalent; but without knowing more, I'm not	
11:15:13 24		A. I see that's what this is, yes.	11:19:04 24	sure.	
11:15:15 25		Q. And you see it also states that this individual	11:19:05 25	There are also provisions under federal law for	

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11:19:11 1	collecting registration records or records relating to		11:35:31 1	time and go through them.	
11:19:15 2	registration; and so a member of the public, depending		11:35:32 2	So, first of all, this will be Exhibit 17.	
11:19:19 3	on when they were seeking information like this, might		11:35:32 3	(Whereupon the document referred to is marked	
11:19:23 4	turn to that federal law.		11:35:32 4	by the reporter as Defense Exhibit 17 for	
11:19:25 5	BY MR. LOCKERBY:		11:35:51 5	identification.)	
11:19:32 6	Q. And the federal law would apply to this		11:35:51 6	THE WITNESS: Thank you.	
11:19:36 7	particular document because the correspondence was sent		11:36:01 7	MR. LOCKERBY: This one will be Exhibit 18.	
11:19:40 8	to U.S. Citizenship and Immigration Services; is that		11:36:01 8	(Whereupon the document referred to is marked	
11:19:40 9	right?		11:36:01 9	by the reporter as Defense Exhibit 18 for	
11:19:45 10	A. No, that is not correct.		11:36:18 10	identification.)	
11:19:52 11	Q. How would someone go about obtaining a document		11:36:18 11	THE WITNESS: Thank you.	
11:19:55 12	like the one that's been marked Exhibit 16 under federal		11:36:19 12	MR. LOCKERBY: This one will be Exhibit 19.	
11:19:59 13	law?		11:36:19 13	(Whereupon the document referred to is marked	
11:19:59 14	MR. LEBOWITZ: Objection. Calls for		11:36:19 14	by the reporter as Defense Exhibit 19 for	
11:20:00 15	speculation.		11:36:35 15	identification.)	
11:20:03 16	MR. BRIDGES: Join.		11:36:35 16	MR. BRIDGES: It's two pages?	
11:20:03 17	THE WITNESS: The National Voter Registration		11:36:37 17	MR. LOCKERBY: Should be.	
11:20:06 18	Act provides for public access to records relating to		11:36:42 18	This one will be Exhibit 20.	
11:20:10 19	registration for a certain time period. I don't know		11:37:02 19	This one will be Exhibit 21.	
11:20:18 20	whether a member of the public would have to request the		11:37:02 20	(Whereupon the documents referred to are marked	
11:20:21 21	documents within that time period in order to gain		11:37:02 21	by the reporter as Defense Exhibits 20 and 21 for	
11:20:24 22	access.		11:37:18 22	identification.)	
11:20:30 23	BY MR. LOCKERBY:		11:37:18 23	THE WITNESS: Thank you.	
11:20:30 24	Q. And is that a request that would have to be		11:37:21 24	MR. LOCKERBY: This one will be Exhibit 22.	
11:20:35 25	made to state officials, federal officials, either, or		11:37:21 25	///	
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11:20:41 1	both?		11:37:21 1	(Whereupon the document referred to is marked	
11:20:42 2	MR. BRIDGES: Objection. Lacks foundation.		11:37:21 2	by the reporter as Defense Exhibit 22 for	
11:20:43 3	Calls for speculation.		11:37:35 3	identification.)	
11:20:50 4	THE WITNESS: I would have to consult the law		11:37:35 4	THE WITNESS: Thank you.	
11:20:51 5	again. I -- I am sure that that request could be made		11:37:37 5	MR. LOCKERBY: This one will be Exhibit 23.	
11:20:56 6	of -- if timely, state officials or county officials.		11:37:37 6	(Whereupon the document referred to is marked	
11:21:02 7	I'm unsure about whether it could also be made to		11:37:37 7	by the reporter as Defense Exhibit 23 for	
11:21:05 8	federal officials.		11:37:55 8	identification.)	
11:21:15 9	MR. LOCKERBY: Why don't we take a quick break,		11:37:55 9	THE WITNESS: Thank you.	
11:21:18 10	if this is a good time. I have a series of exhibits		11:37:56 10	MR. LOCKERBY: And this one will be Exhibit 24.	
11:21:20 11	that won't take long to go through, but it might be		11:37:56 11	(Whereupon the document referred to is marked	
11:21:23 12	better if I have them all arranged at once.		11:37:56 12	by the reporter as Defense Exhibit 24 for	
11:21:25 13	So how much time do people need? Five minutes		11:38:14 13	identification.)	
11:21:29 14	or...		11:38:14 14	THE WITNESS: Thank you.	
11:21:29 15	THE WITNESS: A quick restroom break would		11:38:29 15	BY MR. LOCKERBY:	
11:21:32 16	be --		11:38:33 16	Q. All right. You've been handed what's been	
11:21:32 17	MR. BRIDGES: Five minutes is great.		11:38:34 17	marked -- or what have been marked as Exhibits 17, 18,	
11:21:34 18	THE VIDEOGRAPHER: We're off the record at		11:38:42 18	19, 20, 21, 22, 23, and 24 to your deposition; and these	
11:21:36 19	11:21 a.m.		11:38:54 19	are all among documents that you produced in response to	
11:21:38 20	(A recess is taken.)		11:38:59 20	the subpoena.	
11:35:11 21	THE VIDEOGRAPHER: We are back on the record at		11:39:03 21	The first one, Exhibit 17, is also from the	
11:35:17 22	11:35 a.m.		11:39:08 22	San Diego County Registrar of Voters dated March 6,	
11:35:20 23	MR. LOCKERBY: Okay. I have a series of		11:39:17 23	2014.	
11:35:23 24	documents I'm going to mark. I'm going to ask you some		11:39:17 24	Exhibit 18 is from the San Diego County	
11:35:27 25	questions about all of them at once just to try and save		11:39:21 25	Registrar of Voters dated November 10, 2014.	

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11:39:27 1	Exhibit 19 says on the first page, "Use this	11:42:06 1	Q. In your experience, are there circumstances in				
11:39:38 2	form only for canceling registration in San Diego	11:42:09 2	which an individual indicates at the time that he or she				
11:39:44 3	County." And you see it has the name of a voter across	11:42:14 3	registers to vote that he or she is a citizen, is				
11:39:46 4	the top?	11:42:17 4	registered, but then later seeks cancellation based on				
11:39:48 5	A. Yes.	11:42:23 5	noncitizenship?				
11:39:49 6	Q. And it says the voter's place of birth is	11:42:24 6	A. I have seen examples of that, yes.				
11:39:55 7	Tijuana?	11:42:27 7	Q. And in your experience, are there certain				
11:39:56 8	A. Yes.	11:42:29 8	circumstances in which an individual, having previously				
11:39:56 9	Q. And then the individual says, "I hereby	11:42:34 9	registered to vote by claiming to be a citizen, would				
11:39:59 10	authorize the registrar of voters to cancel this	11:42:37 10	then want to correct the record and state that he or she				
11:40:02 11	registration for the following reason: Noncitizen."	11:42:42 11	is not a citizen?				
11:40:09 12	Do you see that?	11:42:43 12	A. Yes.				
11:40:10 13	A. Yes.	11:42:43 13	Q. Why would that be?				
11:40:10 14	Q. In your experience, is there a reason that	11:42:45 14	MR. LEBOWITZ: Objection.				
11:40:13 15	someone might want to cancel his or her own voter	11:42:46 15	MR. BRIDGES: Objection. Calls for -- join.				
11:40:17 16	registration for being a noncitizen?	11:42:48 16	THE WITNESS: So there may be several different				
11:40:18 17	A. Yes.	11:42:51 17	reasons. Among them, again, the individual mistake. An				
11:40:19 18	MR. BRIDGES: Objection. Calls for	11:42:55 18	individual may have indicated incorrectly that they were				
11:40:20 19	speculation.	11:42:58 19	a citizen when, in fact, they were not or may have				
11:40:21 20	You may answer.	11:43:01 20	misunderstood the instructions on the registration form				
11:40:22 21	THE WITNESS: Yes.	11:43:04 21	and then later come to realize that they filled out the				
11:40:22 22	BY MR. LOCKERBY:	11:43:08 22	form improperly.				
11:40:23 23	Q. What reason would that be?	11:43:10 23	BY MR. LOCKERBY:				
11:40:24 24	MR. BRIDGES: Same objection.	11:43:10 24	Q. Have you ever seen situations in which someone				
11:40:26 25	You may answer.	11:43:14 25	who was registering people to vote provided inaccurate				
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11:40:27 1	THE WITNESS: There may be several. Among	11:43:20 1	information that's provide -- that has prompted a				
11:40:30 2	them, looking only at this Exhibit 19 before me, Mr. or	11:43:23 2	noncitizen to register?				
11:40:40 3	Ms. Rodriguez -- I'm not sure -- appears to have been	11:43:32 3	A. Yes.				
11:40:48 4	registered by mistake, declared him or herself not to be	11:43:33 4	Q. And in your experience, if a --				
11:40:52 5	a citizen on the registration form, and was nevertheless	11:43:38 5	A. I should -- pardon me. I should clarify.				
11:40:55 6	registered. And so a citizen -- a individual, a	11:43:41 6	I have not personally -- you asked whether I				
11:41:00 7	noncitizen seen that they had been registered by	11:43:43 7	had seen. I have not personally seen that happen. I am				
11:41:04 8	official mistake, they seek cancellation of their record.	11:43:47 8	aware of circumstances in which that has happened.				
11:41:09 9	BY MR. LOCKERBY:	11:43:49 9	Q. Okay. And are you aware of circumstances in				
11:41:09 10	Q. How can you tell by this form that the	11:43:52 10	which a noncitizen decides to seek citizenship and				
11:41:12 11	individual was registered by mistake?	11:44:03 11	encounters difficulties because the person has				
11:41:14 12	A. On the second page of Exhibit 19 -- it's a	11:44:06 12	previously voted even though not being entitled to do				
11:41:19 13	little bit difficult to read on the facsimile copy here;	11:44:09 13	so?				
11:41:22 14	but above Question 12, over on the bottom right-hand	11:44:10 14	A. Yes.				
11:41:27 15	side of the page, there is a question asking, "Are you a	11:44:10 15	Q. And under those circumstances, would it make				
11:41:33 16	citizen of the United States of America," question mark.	11:44:12 16	sense for a noncitizen to notify voter registration				
11:41:35 17	There are two bubbles next to that: One for yes, one	11:44:19 17	officials so that hopefully the application for				
11:41:38 18	for no.	11:44:23 18	citizenship will be successful?				
11:41:39 19	I can't authenticate this document, but the	11:44:26 19	MR. LEBOWITZ: Objection. Calls for				
11:41:42 20	bubble next to "no" is colored in. And according to	11:44:27 20	speculation.				
11:41:48 21	procedure in every jurisdiction of which I'm aware, a	11:44:28 21	MR. BRIDGES: Join.				
11:41:53 22	form should not have been processed. That's not	11:44:30 22	THE WITNESS: Would that make sense? Yes.				
11:41:56 23	accurate. A form should have been processed, but	11:44:34 23	BY MR. LOCKERBY:				
11:42:00 24	individual should not have been registered if they	11:44:34 24	Q. And are you aware of circumstances in which				
11:42:02 25	indicated that they were not a citizen.	11:44:37 25	that's happened?				

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11:44:39	1	A. I -- I don't know that I'm aware with		11:47:36	1	who's summoned for jury duty states that he or she is	
11:44:46	2	sufficient detail to say that that's why somebody might		11:47:41	2	not a U.S. citizen?	
11:44:51	3	have made that particular request.		11:47:42	3	A. Yes.	
11:44:51	4	Q. Have you heard that that's happened?		11:47:44	4	Q. Do you know whether that happens in the	
11:44:57	5	A. Probably. I honestly can't say, you know,		11:47:48	5	Commonwealth of Virginia?	
11:45:02	6	without pointing to a particular article where		11:47:50	6	A. I don't know.	
11:45:04	7	somebody's made that claim. But that -- that would not		11:47:51	7	Q. Do you believe that that's something that state	
11:45:06	8	surprise me.		11:47:58	8	courts should do? Notify registrars when someone is	
11:45:06	9	Q. And you don't have any basis for disputing that		11:48:02	9	excused from jury duty on the basis of not being a U.S.	
11:45:09	10	that's happened?		11:48:08	10	citizen?	
11:45:09	11	A. I do not.		11:48:08	11	A. I do.	
11:45:21	12	Q. I'd like you to look, please, at what's been		11:48:08	12	Q. Why?	
11:45:24	13	marked as Exhibit 20. Do you see this says it's a --		11:48:10	13	A. It should prompt further investigation about	
11:45:37	14	it's from the DeKalb County, Georgia, Board of		11:48:13	14	whether that individual is actually a noncitizen or not;	
11:45:43	15	Registration and Elections?		11:48:17	15	and if that individual is actually a noncitizen, it	
11:45:44	16	A. Yes.		11:48:20	16	should result in, at the least, removal from the voter	
11:45:44	17	Q. And it says, "Dear Mr. Currier, According to		11:48:24	17	rolls.	
11:45:48	18	information you furnished on the jury questionnaire from		11:48:24	18	Q. If someone has stated under oath that he or she	
11:45:51	19	DeKalb Superior Court, you are not a U.S. citizen. You		11:48:31	19	is not a citizen of the United States, what further	
11:45:55	20	must be a U.S. citizen to be eligible to register and		11:48:33	20	investigation, in your view, would be required?	
11:45:59	21	vote."		11:48:41	21	A. I would think that a registrar would want to	
11:45:59	22	In your experience, does it sometimes come to		11:48:44	22	confirm that the individual is now currently not a	
11:46:02	23	light that registered voters, in fact, are not U.S.		11:48:49	23	citizen; that is, there may be an investigation to	
11:46:07	24	citizens when they are summoned for jury duty?		11:48:55	24	whether status has changed at the time. And there may	
11:46:11	25	MR. BRIDGES: Objection. Calls for -- well, as		11:48:58	25	also be an investigation as to whether the individual	
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11:46:14	1	phrased, I think it calls for speculation.		11:49:00	1	lied when they said they were not a citizen or were	
11:46:16	2	But you may answer.		11:49:02	2	otherwise mistaken when they said they were not a	
11:46:17	3	THE WITNESS: Yeah. It sometimes comes to		11:49:05	3	citizen.	
11:46:19	4	light that individuals have indicated in response to		11:49:05	4	Q. And how would a registrar be able to verify	
11:46:22	5	jury service summons that they are noncitizens. I		11:49:08	5	whether somebody is, in fact, a U.S. citizen?	
11:46:26	6	confess that I don't know whether that is true.		11:49:12	6	MR. BRIDGES: Objection. Calls for	
11:46:32	7	BY MR. LOCKERBY:		11:49:13	7	speculation.	
11:46:34	8	Q. So you're saying you don't know whether the		11:49:15	8	THE WITNESS: There are several potential	
11:46:38	9	citizen's statement in response to jury summons that he		11:49:17	9	avenues. I don't know all of the steps that registrar	
11:46:42	10	or she is not a U.S. citizen is true? You simply know		11:49:20	10	would, might, or should take. One potential avenue is	
11:46:45	11	that some individual summoned for jury duty then state		11:49:25	11	to contact the individual themselves.	
11:46:50	12	that they're not U.S. citizens?		11:49:33	12	BY MR. LOCKERBY:	
11:46:52	13	A. Correct.		11:49:34	13	Q. Besides contacting the individual, what else	
11:46:53	14	I -- I do want to clarify. I don't know that		11:49:36	14	could a registrar do to try to investigate and verify	
11:46:56	15	that's what happened in Exhibit 20. There is an		11:49:41	15	whether an individual is, in fact, not a U.S. citizen?	
11:47:00	16	indication on Page 3 that the voter was sent a letter to		11:49:45	16	MR. BRIDGES: Objection. Calls for	
11:47:02	17	verify their citizenship and never responded. I don't		11:49:46	17	speculation.	
11:47:07	18	know whether the individual in Exhibit 20 affirmatively		11:49:47	18	MR. LEBOWITZ: Join.	
11:47:12	19	indicated that they were not a citizen.		11:49:50	19	THE WITNESS: I don't know -- it depends on the	
11:47:14	20	Q. And on the second page of the exhibit, you		11:49:53	20	jurisdiction -- whether the registrar has access to, for	
11:47:17	21	don't know who wrote, "He is a citizen of Australia, not		11:49:58	21	example, motor vehicle or other public records. There	
11:47:22	22	the U.S."?		11:50:00	22	are some states in which records track whether	
11:47:23	23	A. Correct.		11:50:03	23	individuals presented proof of citizenship upon	
11:47:27	24	Q. Are you aware of the fact that in some states,		11:50:07	24	application for various benefits, including driver's	
11:47:31	25	the state courts notify local registrars when someone		11:50:11	25	licenses or the like. A registrar with access to that	

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11:50:16 1	information could determine whether information		11:53:05 1	BY MR. LOCKERBY:	
11:50:22 2	revealing the person to be a citizen was provided in		11:53:06 2	Q. Okay. Let me ask it a different way.	
11:50:25 3	some other government benefit database. That's going to		11:53:07 3	In your experience, does someone have to be a	
11:50:32 4	vary based on whether the individuals that -- the		11:53:11 4	citizen of the United States in order to receive certain	
11:50:36 5	government officials have access to that sort of		11:53:15 5	government benefits? Housing assistance, food	
11:50:39 6	information.		11:53:18 6	assistance, that sort of thing.	
11:50:39 7	BY MR. LOCKERBY:		11:53:21 7	A. It depends on the benefit.	
11:50:40 8	Q. So in the case of motor vehicle records, in		11:53:22 8	Q. There are some benefits for which an individual	
11:50:43 9	many states someone can obtain a driver's license		11:53:25 9	does not have to be a U.S. citizen; correct?	
11:50:46 10	without being a U.S. citizen; correct?		11:53:27 10	A. I believe that's correct.	
11:50:48 11	A. Correct.		11:53:29 11	Q. And if a noncitizen is receiving such benefits,	
11:50:48 12	Q. And the forms of identification required for a		11:53:31 12	the agency responsible for the benefits should have	
11:50:53 13	noncitizen to obtain a driver's license could include,		11:53:37 13	information about whether the individual is a citizen;	
11:50:56 14	you know, for example, what's referred to as a green		11:53:41 14	correct?	
11:51:00 15	card?		11:53:41 15	MR. BRIDGES: Calls for speculation.	
11:51:00 16	A. In some states, that's correct.		11:53:43 16	Objection.	
11:51:02 17	Q. So if someone has a green card, then that		11:53:46 17	THE WITNESS: Yeah. That -- that depends --	
11:51:06 18	individual is, by definition, not a U.S. citizen?		11:53:47 18	that's incorrect as a blanket statement. It depends on	
11:51:12 19	A. Incorrect. That individual at the time they		11:53:50 19	what information is collected at the time the individual	
11:51:14 20	presented their green card was not a citizen.		11:53:54 20	applied for benefits and what obligations there are to	
11:51:17 21	Q. Yeah. And if the individual registered to vote		11:53:57 21	update that information to reflect the continuing	
11:51:26 22	without being a U.S. citizen, if a state official had		11:53:59 22	adjustment of immigration status.	
11:51:31 23	access to the identification provided to the Department		11:54:03 23	BY MR. LOCKERBY:	
11:51:36 24	of Motor Vehicles, a registrar could verify that;		11:54:03 24	Q. And not every state registrar has access to the	
11:51:36 25	correct?		11:54:07 25	type of benefit information that you just described; is	
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11:51:45 1	A. A registrar could verify what? I'm not sure I		11:54:07 1	that right?	
11:51:48 2	know how --		11:54:10 2	A. Correct.	
11:51:48 3	Q. Could verify whether the individual registered		11:54:10 3	Q. There is also a database maintained by the	
11:51:51 4	to vote without being a U.S. citizen.		11:54:14 4	Department of Homeland Security known as SAVE.	
11:51:56 5	A. It would depend on the timing. Maybe it's		11:54:19 5	Are you familiar with that?	
11:52:01 6	possible that given the timing of both the motor vehicle		11:54:20 6	A. I am.	
11:52:04 7	record and the registration, that a registrar might have		11:54:20 7	Q. And not every state participates in the SAVE	
11:52:08 8	been able to determine that at the time the registration		11:54:24 8	program or uses data available through the SAVE program	
11:52:10 9	was submitted, an individual was likely not a U.S.		11:54:29 9	to verify citizenship of registered voters; is that	
11:52:14 10	citizen.		11:54:29 10	right?	
11:52:14 11	I don't know that it would be possible if there		11:54:32 11	A. That's correct.	
11:52:20 12	is a time gap for the registrar to prove that the		11:54:32 12	Q. Are you familiar with any states that are using	
11:52:25 13	individual was not a citizen by referring to an older		11:54:39 13	it?	
11:52:28 14	motor vehicle record.		11:54:42 14	A. I believe that the Department of Homeland	
11:52:29 15	Q. And in your experience, not every state		11:54:45 15	Security has indicated that the SAVE database is	
11:52:35 16	provides registrars with access to the type of motor		11:54:50 16	unsuitable for verifying the current citizenship of	
11:52:39 17	vehicle records that we've been discussing?		11:54:53 17	individuals in the system. And so I'm not aware of any	
11:52:41 18	A. Correct.		11:54:57 18	state that currently uses that system on a regular	
11:52:42 19	Q. And similarly, in your experience, not every		11:55:02 19	basis. There may be individual law enforcement	
11:52:46 20	state provides registrars with access to information		11:55:05 20	proceedings that access that database for disposing of	
11:52:49 21	about whether noncitizens are receiving benefits?		11:55:11 21	certain individual cases, but I'm not -- I'm not aware	
11:52:59 22	MR. BRIDGES: Objection. Vague and ambiguous.		11:55:15 22	of a state that more broadly uses that database for that	
11:53:01 23	THE WITNESS: I think -- yeah. I think that's		11:55:18 23	purpose, no.	
11:53:04 24	correct. But could you clarify the question.	///	11:55:21 25	Q. So you weren't aware that Colorado, Texas,	
11:53:05 25				Florida, and Kansas were using the database to verify	

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11:55:26 1	whether noncitizens are registered to vote?		11:59:23 1	A. Correct.	
11:55:30 2	A. I am not.		11:59:23 2	Q. -- versus United States Election Assistance	
11:55:32 3	Q. And you weren't aware -- or are you aware of		11:59:27 3	Commission.	
11:55:38 4	the fact that the information accessible through the		11:59:29 4	Have you read this brief before?	
11:55:45 5	SAVE program is information that, for example, a state		11:59:30 5	A. Perhaps.	
11:55:50 6	Department of Motor Vehicles would have, like an alien		11:59:35 6	Q. But at least you had it in your files?	
11:55:53 7	number?		11:59:37 7	A. I have it. I -- I wish that I had read	
11:55:53 8	A. It depends on the motor vehicle laws in any		11:59:40 8	everything in my files. I have not. I don't recall	
11:55:56 9	particular state.		11:59:43 9	whether I've read this particular brief before.	
11:55:58 10	Q. But --		11:59:46 10	Q. And do you see that this brief says it was	
11:55:59 11	A. I -- across the board, I don't know that all		11:59:52 11	submitted on behalf of the American Civil Rights Union?	
11:56:02 12	states require an alien number, for example.		11:59:57 12	A. Yes.	
11:56:10 13	Q. But you do know that every state requires some		11:59:57 13	Q. And counsel for the American Civil Rights Union	
11:56:14 14	form of documentation for a noncitizen to get a driver's		12:00:02 14	was the Public Interest Legal Foundation --	
11:56:20 15	license?		12:00:04 15	A. Yes.	
11:56:21 16	MR. BRIDGES: Objection. Vague and ambiguous.		12:00:04 16	Q. -- one of the defendants in that case.	
11:56:23 17	THE WITNESS: Every state requires some form of		12:00:08 17	Do you see that?	
11:56:25 18	documentation to get a driver's license, including		12:00:11 18	A. I -- I know that the Public Interest Legal	
11:56:30 19	noncitizens, yes.		12:00:14 19	Foundation was counsel. I'm -- I'm not aware that they	
11:56:31 20	BY MR. LOCKERBY:		12:00:17 20	were defendants in the case.	
11:56:32 21	Q. And do you know whether the documentation that		12:00:18 21	Q. Defendants in this case.	
11:56:38 22	a state -- or that states require to get a driver's		12:00:19 22	A. Yes.	
11:56:41 23	license contains information that is recorded in the		12:00:20 23	Q. In the case in which you're testifying. You	
11:56:45 24	SAVE database?		12:00:22 24	are aware of that?	
11:56:46 25	MR. LEBOWITZ: Objection.		12:00:23 25	A. Yes.	
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11:56:48 1	THE WITNESS: Sometimes, yes. Other times, no.		12:00:24 1	Q. And if you look at Page 1 of the brief, under	
11:56:55 2	BY MR. LOCKERBY:		12:00:31 2	"Interests of Amicus," it lists the members of the	
11:56:58 3	Q. I'd like you to look, please, at Exhibits 21,		12:00:42 3	American Civil Rights Union's board.	
11:57:05 4	22, 23, and 24, all of which you've produced; and all of		12:00:45 4	Do you see that?	
11:57:18 5	these reflect the cancellation of voter registrations in		12:00:45 5	A. I do.	
11:57:23 6	California based on noncitizenship; correct?		12:00:46 6	Q. And one of them is Former Ohio Secretary of	
11:57:33 7	A. I'd like a moment to take a look at them.		12:00:53 7	State J. Kenneth Blackwell.	
11:58:00 8	These appear to be cancellations of voter		12:00:55 8	Are you familiar with Mr. Blackwell?	
11:58:03 9	registration or indications that registration will be		12:00:56 9	A. I am.	
11:58:06 10	canceled on the basis of noncitizenship, yes.		12:00:57 10	Q. How are you familiar with him?	
11:58:33 11	MR. LOCKERBY: I'd like to have this marked as		12:00:58 11	A. He was the Secretary of State, I believe, in	
11:58:35 12	Exhibit 25, please.		12:01:03 12	the period including 2004 in Ohio. I'm familiar with	
11:58:35 13	(Whereupon the document referred to is marked		12:01:11 13	many but not all of the Secretaries of State in many of	
11:58:35 14	by the reporter as Defense Exhibit 25 for		12:01:15 14	the states.	
11:58:53 15	identification.)		12:01:16 15	Q. Are you aware that he has been retained as an	
11:58:53 16	THE WITNESS: Thank you.		12:01:19 16	expert by defendants in this case?	
11:58:58 17	MR. GORMAN: What exhibit number is this?		12:01:21 17	A. I was not.	
11:59:00 18	Sorry. Twenty-five?		12:01:22 18	Q. And also, at the bottom of Page 1, top of	
11:59:02 19	MR. LOCKERBY: Should be 25.		12:01:29 19	Page 2, it identifies Mr. Adams and Mr. von Spakovsky as	
11:59:04 20	MR. GORMAN: Yeah.		12:01:38 20	members of the board of ACRU. Do you see that?	
11:59:07 21	BY MR. LOCKERBY:		12:01:41 21	A. I do.	
11:59:07 22	Q. Exhibit 25 is among the documents that you		12:01:49 22	Q. When this was filed in the U.S. Supreme Court,	
11:59:10 23	produced, and we've numbered it 174. It's an amicus		12:01:53 23	had you come on board at the justice department at that	
11:59:17 24	brief submitted to the Supreme Court in the case of		12:01:57 24	time?	
11:59:22 25	Kobach -- is that how you pronounce his name?		12:01:57 25	A. No.	

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12:01:57	1	Q. So this -- forgive me. I think you probably	12:05:05	1	states specifically to find noncitizens."
12:02:02	2	answered this before. But when exactly did you start?	12:05:10	2	Q. Do you agree that federal agencies have refused
12:02:05	3	A. It would have been either late August or early	12:05:14	3	to cooperate with state election officials that have
12:02:08	4	September of 2015. I can't recall the exact date.	12:05:17	4	tried to verify the citizenship of registered voters?
12:02:11	5	Q. On the top of page -- or on Page 10, there is a	12:05:21	5	A. I do not know the various ways in which the
12:02:31	6	heading that says, "The Federal Forum Has Failed to	12:05:28	6	unnamed state officials here have attempted to interact
12:02:36	7	Prevent Noncitizens from Registering to Vote and Casting	12:05:31	7	with federal agencies, and so I can't really opine one
12:02:41	8	Ballots."	12:05:37	8	way or the other.
12:02:42	9	Do you see that?	12:05:37	9	Q. Further up on Page 14 there is a reference to a
12:02:43	10	A. I do.	12:05:40	10	2005 report from the Government Accountability Office,
12:02:43	11	Q. And then on the next page, there is a heading	12:05:44	11	which, according to this, found that up to 3 percent of
12:02:45	12	on Page 11 entitled "Noncitizens Are Registering and	12:05:51	12	the 30,000 individuals chosen for jury duty from voter
12:02:52	13	Voting." And you see one of the references on that page	12:05:54	13	registration rolls in just one U.S. district court over
12:02:57	14	is records from Harris County, Texas?	12:05:58	14	a 2-year period were not U.S. citizens.
12:03:01	15	A. I -- I see that that's a reference, yes.	12:06:01	15	Are you familiar with the GAO report cited
12:03:03	16	Q. Yeah. And do you have any basis for disputing	12:06:06	16	here?
12:03:06	17	that reference?	12:06:06	17	A. I'm generally familiar with that report, yes.
12:03:07	18	MR. BRIDGES: Objection. Vague and ambiguous.	12:06:08	18	Q. And that report is from 2005; right?
12:03:10	19	THE WITNESS: The fact that there is a	12:06:11	19	A. That's correct.
12:03:11	20	reference in the brief? I -- I do not.	12:06:12	20	Q. Do you know whether that report has been
12:03:12	21	BY MR. LOCKERBY:	12:06:14	21	updated at any time since 2005?
12:03:13	22	Q. Do you dispute the accuracy of the records	12:06:25	22	A. I don't. I know that the GAO has done
12:03:17	23	referenced here? Do you have any basis for disputing	12:06:30	23	additional studies since 2005 on the maintenance of
12:03:19	24	that one way or the other?	12:06:33	24	voter registration lists. I don't know whether those
12:03:21	25	MR. BRIDGES: Objection. Vague and ambiguous.	12:06:36	25	purport to be an update of this assessment or not.
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12:03:24	1	THE WITNESS: Yeah. I -- sitting here, I have	12:06:39	1	Q. And if someone wanted to determine how many
12:03:27	2	no basis to know whether those records are accurate or	12:06:42	2	individuals chosen for jury duty in federal courts were
12:03:30	3	not or what they purport to be.	12:06:49	3	not seated as jurors based on noncitizenship status, how
12:03:45	4	BY MR. LOCKERBY:	12:06:55	4	would a private citizen go about that?
12:03:46	5	Q. On Page 14 -- bottom of Page 14, top of	12:06:58	5	MR. BRIDGES: Objection. Calls for
12:03:51	6	Page 15, there is a quotation to -- quotation of and	12:06:58	6	speculation.
12:03:56	7	citation to testimony of Mr. von Spakovsky in which he	12:07:00	7	THE WITNESS: Yeah. I -- I don't know. I
12:04:02	8	states, "Obtaining an accurate assessment of the size of	12:07:02	8	would have to speculate. I imagine that -- I'm not
12:04:06	9	this problem is difficult. There is no systematic	12:07:09	9	going to imagine that. I don't know.
12:04:10	10	review of voter registration rolls by most states to	12:07:09	10	BY MR. LOCKERBY:
12:04:14	11	find noncitizens. And the relevant federal agencies in	12:07:11	11	Q. If you yourself wanted to do some research as
12:04:18	12	direct violation of federal law have either refused to	12:07:22	12	to the number of jurors chosen for jury duty from voter
12:04:21	13	cooperate with those few state election officials who	12:07:25	13	registration rolls were not seated as jurors by federal
12:04:24	14	seek to verify the citizenship status of registered	12:07:30	14	courts based on being noncitizens, how would you go
12:04:27	15	voters or put up burdensome red tape to make such	12:07:33	15	about that?
12:04:31	16	verification difficult."	12:07:34	16	MR. LEBOWITZ: Objection. Calls for
12:04:35	17	Are there any statements by Mr. von Spakovsky	12:07:35	17	speculation.
12:04:39	18	in the passage I've just read you with which you agree?	12:07:35	18	THE WITNESS: I would -- I would -- if there
12:04:44	19	A. Yes.	12:07:40	19	were a particular district that I were interested in, I
12:04:45	20	Q. Which ones?	12:07:45	20	would write the -- begin by writing the administrative
12:04:46	21	A. "Obtaining an accurate assessment of the size	12:07:51	21	office of the courts for that district or the court
12:04:51	22	of this problem is difficult."	12:07:53	22	clerk for that district to ask if that information were
12:04:52	23	Q. Any other statements?	12:07:56	23	available. If that information were kept -- and I'm not
12:04:54	24	A. I believe that it is true that, "There is no	12:08:04	24	sure if it is or it is not in the district in
12:05:01	25	systematic review of voter registration rolls by most	12:08:06	25	question -- I would then examine the public access

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12:08:13 1	freedom of information laws in the jurisdiction to		12:13:50 1	be interesting.	
12:08:16 2	determine whether that information was a public record		12:13:52 2	Q. And was there anything about that case that you	
12:08:19 3	to which I had the right of access.		12:13:54 3	saw as having the potential to make new law?	
12:08:21 4	BY MR. LOCKERBY:		12:13:59 4	A. There is always the potential whenever a	
12:08:22 5	Q. But sitting here today, you don't know whether		12:14:05 5	complaint is brought for a court to make new law on it.	
12:08:24 6	it's even possible if you could get that information		12:14:08 6	And so there was nothing particularly in the complaint	
12:08:27 7	from any particular U.S. district court, much less the		12:14:14 7	that seemed extraordinary, but I could not anticipate	
12:08:32 8	federal courts, in general?		12:14:18 8	what a court would do down the road. There were --	
12:08:34 9	A. Correct.		12:14:29 9	pardon me. I had forgotten. This was not only about	
12:11:11 10	THE WITNESS: Bless you.		12:14:37 10	obtaining election records, but also about list	
12:11:14 11	MR. BRIDGES: Bless you.		12:14:40 11	maintenance. And that is even less frequently	
12:11:15 12	THE VIDEOGRAPHER: Thank you.		12:14:42 12	litigated. And so it was likely that no matter what a	
12:11:19 13	MR. LOCKERBY: Let's see. What exhibit are we		12:14:48 13	court might do in this area, it would in some way	
12:11:24 14	up to now?		12:14:52 14	clarify or refine the existing law.	
12:11:25 15	MR. BRIDGES: Twenty-five was the last one.		12:15:26 15	Q. How did you become aware of the two reports at	
12:11:26 16	MR. LOCKERBY: All right. I'd like to have		12:15:30 16	issue in this litigation, Alien Invasion I published	
12:11:28 17	this marked as 25, please.		12:15:38 17	September 30, 2016, and Alien Invasion II published in	
12:11:30 18	MR. LEBOWITZ: The last one --		12:15:42 18	May of 2017?	
12:11:31 19	MR. BRIDGES: The last one was 25.		12:15:45 19	A. I don't recall. They were likely called to my	
12:11:32 20	MR. LOCKERBY: Twenty-five.		12:15:55 20	attention in the press in some way, but I don't recall.	
12:11:33 21	Twenty-six.		12:15:59 21	Q. And at some point after the publication of	
12:11:33 22	(Whereupon the document referred to is marked		12:16:21 22	Alien Invasion II, did you start contacting certain	
12:11:33 23	by the reporter as Defense Exhibit 26 for		12:16:25 23	Virginia voters whose names appeared in one or more of	
12:11:50 24	identification.)		12:16:30 24	the exhibits to Alien Invasion II?	
12:11:50 25	THE WITNESS: Thank you.		12:16:33 25	A. I did.	
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12:12:07 1	BY MR. LOCKERBY:		12:16:33 1	Q. Why did you do that?	
12:12:07 2	Q. Exhibit 26 is also among the documents that you		12:16:36 2	A. I wanted to find out if the claims were	
12:12:11 3	produced. And you see it's an -- says it's an e-mail		12:16:43 3	accurate in the report. Specifically, I wanted to see	
12:12:17 4	from justinmlevitt@gmail.com. And it says it's to		12:16:49 4	whether I could determine whether the individuals were	
12:12:27 5	justinlevitt@lls.edu?		12:16:51 5	citizens or noncitizens.	
12:12:31 6	A. Correct.		12:17:01 6	Q. And why did you want to make that	
12:12:31 7	Q. So you were e-mailing these documents from your		12:17:03 7	determination? For what purpose?	
12:12:37 8	personal e-mail address to your Loyola Law School		12:17:04 8	A. I wanted to ascertain the accuracy of the	
12:12:41 9	address; is that right?		12:17:08 9	claims in the report because I research, among other	
12:12:42 10	A. Correct.		12:17:13 10	things, in the area of claims about voter fraud and	
12:12:42 11	Q. And the very first attachment is a copy of the		12:17:18 11	their accuracy. Some of my other research is in the	
12:12:48 12	complaint filed by PILF on behalf of the Virginia Voters		12:17:25 12	area of election administration and procedures that	
12:12:55 13	Alliance and David Norcross against Anna Leider, or		12:17:29 13	various registrars undertake. And I wasn't sure if	
12:12:59 14	Leider, the registrar for the City of Alexandria.		12:17:32 14	there was a common thread to how individuals might have	
12:13:03 15	Why were you e-mailing yourself a copy of that?		12:17:36 15	been incorrectly or inaccurately flagged or accurately	
12:13:06 16	A. I thought this was an interesting case under		12:17:44 16	or incorrectly flagged. And so wanted to see if I could	
12:13:09 17	Section 8 of the NVRA.		12:17:48 17	determine from talking to the individuals themselves	
12:13:11 18	Q. And why did you find it of interest?		12:17:51 18	whether there was something that had caused them to be	
12:13:16 19	A. The availability of election records is		12:17:54 19	labeled as noncitizens.	
12:13:21 20	something that isn't particularly frequently litigated;		12:17:56 20	Q. Did you communicate with every Virginia voter	
12:13:29 21	and so I'm interested in, among other things, cases that		12:18:01 21	identified in -- in exhibit to the report --	
12:13:35 22	might have the potential to make new law in this area.		12:18:01 22	A. No.	
12:13:38 23	These cases are sometimes exceedingly straightforward		12:18:08 23	Q. -- reports?	
12:13:42 24	but sometimes not. And so this was -- I wanted to read		12:18:09 24	How did you determine which ones to communicate	
12:13:46 25	more to see whether this was a case that was likely to		12:18:10 25	with and which ones not to communicate with?	

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12:18:14	1	A. Those who had e-mail addresses listed on the	12:21:41	1	publication of Alien Invasion II did you anticipate
12:18:18	2	registration forms that were -- that were publicized as	12:21:45	2	litigation?
12:18:25	3	part of the -- an exhibit to the report, I attempted to	12:21:46	3	A. I can't recall the exact date.
12:18:32	4	contact. Those who did not have e-mail addresses listed	12:21:50	4	Q. Do you recall how soon after publication of
12:18:39	5	particularly in registration forms attached to an	12:21:55	5	Alien Invasion II you anticipated litigation?
12:18:43	6	exhibit to the report, I did not.	12:22:03	6	A. No.
12:18:44	7	Q. But you didn't attempt to contact -- are you	12:22:04	7	Q. And Virginia voters that you contacted were
12:18:52	8	familiar with a report attached as an exhibit to Alien	12:22:09	8	identified only in exhibits to Alien Invasion II; isn't
12:18:59	9	Invasion II known as a VERIS report?	12:22:16	9	that right?
12:19:02	10	A. I'm familiar with VERIS reports generally. I	12:22:16	10	A. I don't know if those individuals have been
12:19:06	11	would have to see the particular report that you were	12:22:20	11	identified anywhere else. I contacted them on the basis
12:19:08	12	referring to.	12:22:24	12	of their identification in Alien Invasion II. That's
12:19:18	13	Q. So is it your testimony that you contacted	12:22:28	13	correct.
12:19:23	14	every individual for whom you could get an e-mail	12:22:28	14	Q. And at the time that you originally contacted
12:19:26	15	address? Is that right?	12:22:34	15	those individuals, were you anticipating litigation?
12:19:29	16	MR. LEBOWITZ: Objection. Misstates testimony.	12:22:48	16	A. I anticipated that there might be conditions
12:19:31	17	MR. BRIDGES: Join.	12:22:51	17	under which litigation might arise. I did not have
12:19:33	18	THE WITNESS: I believe -- there may have been	12:22:56	18	particular litigation in mind.
12:19:41	19	some individuals who indicated on their registration	12:23:06	19	Q. And had you discussed with others the
12:19:47	20	forms that they were not citizens, and I don't believe	12:23:09	20	possibility that litigation might arise at the time you
12:19:51	21	that I attempted to contact them. If -- despite there	12:23:13	21	began contacting these Virginia voters?
12:19:55	22	being an e-mail on the registration form itself. I	12:23:17	22	A. I don't believe so.
12:19:59	23	believe that I contacted every other individual for whom	12:23:22	23	Q. How long after you began contacting Virginia
12:20:05	24	an e-mail address was listed.	12:23:27	24	voters did you contemplate that litigation might arise?
12:20:08	25	///	12:23:32	25	A. I -- I can't recall.
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12:20:08	1	BY MR. LOCKERBY:	12:23:37	1	MR. LOCKERBY: We can go off the record for a
12:20:08	2	Q. Why did you not attempt to contact individuals	12:23:38	2	minute.
12:20:14	3	who had indicated on their registration forms that they	12:23:39	3	THE VIDEOGRAPHER: We're off the record at
12:20:19	4	were not citizens?	12:23:42	4	12:23 p.m.
12:20:20	5	A. In an initial screen of the accuracy of the	12:23:45	5	(A lunch recess is taken.)
12:20:23	6	report, I considered that to be an indication that the	01:12:12	6	THE VIDEOGRAPHER: We are back on the record at
12:20:27	7	individuals were not, in fact, citizens at the time.	01:12:14	7	1:12 p.m.
12:20:30	8	Q. The report was published in May 2017 and	01:12:14	8	BY MR. LOCKERBY:
12:20:44	9	specifically May 27, 2017. How long after its	01:12:18	9	Q. Mr. Levitt, I'm going to show you a document.
12:20:53	10	publication were you anticipating litigation regarding	01:12:20	10	I'm not going to mark this one as an exhibit, but this
12:20:56	11	the Alien Invasion II?	01:12:23	11	is on file with the Court already as Exhibit B to
12:21:01	12	MR. BRIDGES: Would you reread that question to	01:12:27	12	defendant's answer, affirmative defenses, and
12:21:03	13	me, please.	01:12:31	13	third-party complaint; and it's numbered PILF Adams
12:21:03	14	(The record is read by the reporter as	01:12:35	14	14567 through 68.
12:21:03	15	follows:	01:12:57	15	A. Okay.
12:20:34	16	"Q. The report was published in May 2017 and	01:12:59	16	Q. The top portion of this document is an e-mail
12:20:44	17	specifically May 27, 2017. How long after its	01:13:04	17	from Edgardo Cortes, and you see below the body of it he
12:20:53	18	publication were you anticipating litigation	01:13:08	18	identifies himself as the commissioner of the Virginia
12:20:56	19	regarding the Alien Invasion II?"	01:13:11	19	Department of Elections.
12:21:21	20	MR. LOCKERBY: And let me rephrase the question	01:13:12	20	A. I do.
12:21:23	21	because actually I misstated something.	01:13:12	21	Q. Do you know Mr. Cortes?
12:21:25	22	BY MR. LOCKERBY:	01:13:14	22	A. No. I know of him, but I do not know him.
12:21:26	23	Q. Alien Invasion II -- the embargoed copies of	01:13:17	23	Q. And this e-mail is dated April 4, 2017, at
12:21:29	24	the report went out on May 26, 2017, and was embargoed	01:13:24	24	10:30 a.m. As you see, it's addressed to two
12:21:35	25	until 11:00 p.m., May 29, 2017. So at what point after	01:13:30	25	individuals at the Public Interest Legal Foundation,

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01:13:33 1	Bill Johnson and Shawna Powell?		01:16:48 1	as Exhibit 28, please.	
01:13:34 2	A. I see that it's 10:03:30. I guess --		01:16:48 2	(Whereupon the document referred to is marked	
01:13:36 3	Q. Yeah, 10:03:30 a.m. You're absolutely right.		01:16:48 3	by the reporter as Defense Exhibit 28 for	
01:13:41 4	In the third sentence Mr. Cortes writes, "This		01:17:03 4	identification.)	
01:13:48 5	report shows individuals that were canceled due to		01:17:03 5	THE WITNESS: Thank you.	
01:13:53 6	self-reported noncitizen status and failed to complete		01:17:04 6	MR. BRIDGES: Thank you.	
01:13:57 7	an affirmation of citizenship in the allotted time frame		01:17:05 7	MR. LOCKERBY: You're welcome.	
01:14:02 8	and continued to be in canceled status. If an		01:17:12 8	BY MR. LOCKERBY:	
01:14:06 9	individual was previously canceled and then subsequently		01:17:12 9	Q. Exhibit 28 is a series of e-mails that we	
01:14:09 10	affirmed citizenship and was reregistered, they would no		01:17:20 10	have -- have had marked as No. 31 from your production.	
01:14:13 11	longer appear on this report because they would now be		01:17:27 11	Are these additional e-mails that you exchanged	
01:14:16 12	on active status." Do you see that?		01:17:30 12	with various Virginia voters identified in the exhibits	
01:14:18 13	A. I do.		01:17:34 13	to the alien invasion reports?	
01:14:19 14	Q. When you contacted various Virginia voters		01:18:08 14	A. Yes.	
01:14:26 15	whose names appeared in exhibits to the alien invasion		01:18:17 15	Q. And if you look at the very first page, at the	
01:14:30 16	report, or reports, did you let them know about this		01:18:22 16	bottom you see there is one e-mail that says it was sent	
01:14:35 17	e-mail from Mr. Cortes?		01:18:26 17	on May 30, 2017?	
01:14:36 18	A. I was not aware of this e-mail when I contact		01:18:30 18	A. Yes.	
01:14:38 19	them. I don't believe --		01:18:30 19	Q. And then it continues on the following page?	
01:14:41 20	Q. When did you become aware of this e-mail?		01:18:35 20	A. Correct.	
01:14:43 21	A. I think that the first time I've become aware		01:18:44 21	Q. And the wording of that e-mail is similar to	
01:14:46 22	of this e-mail was when you showed it to me moments ago.		01:18:50 22	what you sent out to numerous voters; isn't that right?	
01:14:49 23	Q. Okay. So as part of your research into the		01:18:53 23	A. Correct.	
01:14:55 24	accuracy of the alien invasion reports, you never came		01:18:54 24	Q. And in that e-mail you identified yourself as a	
01:14:59 25	across this?		01:18:58 25	law professor doing research; isn't that right?	
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01:15:01 1	A. Not that I'm aware of. It's possible it's one		01:19:02 1	A. Correct.	
01:15:12 2	of the exhibits to the report, but I don't know that.		01:19:02 2	Q. And it says, "It's in that capacity that I'm	
01:15:25 3	Q. I'd like to have marked as Exhibit 27 --		01:19:06 3	reaching out." Do you see that?	
01:15:29 4	MR. BRIDGES: Twenty-eight.		01:19:08 4	A. I do.	
01:15:32 5	DEPOSITION OFFICER: Twenty-seven.		01:19:15 5	Q. And then back on the first page in your	
01:15:33 6	MR. BRIDGES: This one was twenty-seven.		01:19:23 6	June 26, 2017, e-mail, 2:48 p.m., at that point you	
01:15:35 7	THE WITNESS: That's not --		01:19:29 7	hadn't heard back from Mr. Weidenhof, or Weidenhof, had	
01:15:36 8	MR. LOCKERBY: I didn't mark that.		01:19:33 8	you?	
01:15:37 9	MR. BRIDGES: Oh, I'm sorry.		01:19:33 9	A. I don't believe that I had, no.	
01:15:41 10	MR. LOCKERBY: Like to have marked as		01:19:34 10	Q. And this was a form e-mail that you sent to	
01:15:43 11	Exhibit 27 a 562-page document that we have numbered 51.		01:19:42 11	citizens from whom you hadn't heard back in response to	
01:15:43 12	(Whereupon the document referred to is marked		01:19:46 12	the first report; isn't that right?	
01:15:43 13	by the reporter as Defense Exhibit 27 for		01:19:48 13	A. From individuals from whom I had not heard	
01:16:12 14	identification.)		01:19:51 14	back, correct.	
01:16:12 15	THE WITNESS: Thank you.		01:19:51 15	Q. Yes. And again, you state, "I'm a law	
01:16:16 16	BY MR. LOCKERBY:		01:19:58 16	professor. I spend much of my time researching election	
01:16:16 17	Q. Are the e-mails contained in Exhibit 27 some of		01:20:02 17	issues." Do you see that?	
01:16:22 18	the communications that you had with Virginia voters		01:20:03 18	A. Yes.	
01:16:25 19	identified in exhibits to the alien invasion reports?		01:20:03 19	Q. And you said, "I am one of several individuals	
01:16:31 20	A. I -- I don't want to confirm every single page.		01:20:07 20	looking into the claims in the report."	
01:16:35 21	But yes. It appears, in flipping through, that these		01:20:10 21	Other than you, who else was looking into the	
01:16:38 22	are e-mails -- these are some of the e-mails that I have		01:20:12 22	claims in the report, as far as you knew, as of June 26,	
01:16:41 23	with some of the individuals contained in some of those		01:20:19 23	2017?	
01:16:46 24	reports.		01:20:19 24	A. As far as I knew, there were several reporters	
01:16:46 25	MR. LOCKERBY: And I'd like to have this marked		01:20:24 25	who had asked about some of the claims in the report. I	

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01:20:27 1	did not know if there were others. And I can't recall		01:24:29 1	identified in PILF/VVA Reports." And I realize you	
01:20:32 2	the particular reporters. It's possible that I had		01:24:34 2	haven't seen this before --	
01:20:40 3	already had conversations with some of the counsel in		01:24:35 3	A. Correct.	
01:20:52 4	this case at that time, but I do not know the dates.		01:24:35 4	Q. -- because you didn't prepare it. But the	
01:20:54 5	Q. And as far as you knew, the counsel were not		01:24:39 5	documents that we've looked at already from which this	
01:21:04 6	contacting Virginia voters at that point, were they?		01:24:44 6	was prepared are not necessarily all of your	
01:21:09 7	MR. GORMAN: Objection to the extent that		01:24:47 7	communications with Virginia voters identified in the	
01:21:10 8	question asks you to reveal confidential work product		01:24:52 8	reports; correct?	
01:21:10 9	exchanged with Protect Democracy Project and the		01:24:52 9	(Whereupon the document referred to is marked	
01:21:16 10	Southern Coalition for Social Justice.		01:24:52 10	by the reporter as Defense Exhibit 30 for	
01:21:17 11	MR. BRIDGES: Also, calls for speculation.		01:24:52 11	identification.)	
01:21:20 12	Lacks foundation.		01:24:53 12	A. Because I don't know --	
01:21:22 13	Subject to my objections and the admonition of		01:24:54 13	MR. BRIDGES: Objection. Vague and ambiguous.	
01:21:26 14	counsel with respect to their work product, you may		01:24:57 14	You may answer, if you understand the question.	
01:21:29 15	respond.		01:24:59 15	THE WITNESS: I understand the question.	
01:21:29 16	THE WITNESS: I -- I don't know if I can		01:25:00 16	I don't know how you prepared this, so I don't	
01:21:31 17	respond -- I don't know if there is anything to which I		01:25:02 17	know that I can answer.	
01:21:34 18	can respond that would not involve revealing work		01:25:03 18	BY MR. LOCKERBY:	
01:21:36 19	product of counsel.		01:25:04 19	Q. Well, you do know that Exhibits 27, 28, and 29	
01:21:38 20	BY MR. LOCKERBY:		01:25:10 20	do not contain all of your communications with Virginia	
01:21:38 21	Q. And the work product you're talking about is		01:25:14 21	voters about the reports. That you do know; correct?	
01:21:40 22	not your own work product. It's the work product of the		01:25:18 22	A. Correct.	
01:21:45 23	Southern Coalition For Social Justice and the Protect		01:25:19 23	Q. Thank you.	
01:21:48 24	Democracy Project; is that right?		01:25:28 24	And one of the purposes of your communications	
01:21:53 25	A. In your question, yes, that's correct.		01:25:35 25	with the voters identified in Exhibits 27, 28, 29, and	
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01:22:03 1	MR. LOCKERBY: I'd like to have this marked as		01:25:42 1	30 was to try to discredit Christian Adams; isn't that	
01:22:06 2	Exhibit 29, please.		01:25:42 2	right?	
01:22:06 3	(Whereupon the document referred to is marked		01:25:49 3	A. No.	
01:22:06 4	by the reporter as Defense Exhibit 29 for		01:25:49 4	MR. LEBOWITZ: Objection.	
01:22:22 5	identification.)		01:25:49 5	THE WITNESS: No.	
01:22:22 6	THE WITNESS: Thank you.		01:25:50 6	BY MR. LOCKERBY:	
01:22:25 7	BY MR. LOCKERBY:		01:25:50 7	Q. So you weren't trying to discredit him?	
01:22:26 8	Q. Exhibit 29 is another document that you		01:25:52 8	A. No.	
01:22:30 9	produced that we've marked as No. 4. And if you could		01:25:53 9	Q. In fact, you were also trying to discredit	
01:22:35 10	look at the last page. Do you see there is an e-mail		01:25:57 10	PILF; isn't that right?	
01:22:41 11	exchange dated Tuesday, July 18, 2017?		01:26:00 11	MR. LEBOWITZ: Objection.	
01:22:44 12	A. Yes.		01:26:01 12	THE WITNESS: I can't answer also because I	
01:22:45 13	Q. And the top portion of the e-mail exchange is		01:26:02 13	wasn't trying to discredit Mr. Adams; and I would also	
01:22:51 14	redacted. Do you see that?		01:26:05 14	answer, no, I was not trying to discredit PILF.	
01:22:53 15	A. I do.		01:26:08 15	BY MR. LOCKERBY:	
01:22:53 16	Q. Was this another e-mail exchange that you had		01:26:08 16	Q. So is it your testimony that you're not trying	
01:22:59 17	with a Virginia voter identified in exhibits to the		01:26:11 17	to discredit the presidential advisory commission on	
01:23:07 18	alien invasion reports?		01:26:15 18	election integrity, to which Mr. Adams was appointed?	
01:23:10 19	A. The final page is, yes.		01:26:19 19	A. I -- I don't know that I understand what you	
01:23:12 20	Q. Yes. I'm simply asking about the final page.		01:26:35 20	mean by "trying to discredit" in that question. I	
01:23:15 21	A. Yes.		01:26:41 21	thought that some of the individuals appointed to the	
01:23:15 22	Q. I'd like to have this marked as Exhibit 30,		01:26:45 22	commission and some of the commission's methods were not	
01:23:52 23	please. Exhibit 30 is a document that we've prepared		01:26:48 23	worthy of crediting. I don't know -- I don't know that	
01:24:20 24	entitled "Federal Evidence Rule 1006 Summary of Justin		01:26:53 24	I can answer your question other than that.	
01:24:24 25	Levitt's E-Mail Exchanges with Virginia Voters		01:26:56 25	Q. Starting in May of 2017, you summarized what	

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01:27:03 1	certain Virginia voters had told you in a series of		01:30:33 1	MR. BRIDGES: Objection. Misstates testimony.	
01:27:07 2	tweets, e-mails, and blog posts; isn't that right?		02:42:18 2	THE WITNESS: I said that I spoke to reporters	
01:27:11 3	A. Correct.		02:42:20 3	about that.	
01:27:12 4	Q. And in connection with the research that you		02:42:34 4	BY MR. LOCKERBY:	
01:27:15 5	claim to be performing, you discovered some Virginia		02:42:35 5	Q. In your answer to my prior question, you	
01:27:20 6	voters who had not been U.S. citizens at the time they		02:42:39 6	stated, "I can recall occasions on which I spoke to	
01:27:24 7	registered to vote; isn't that right?		02:42:42 7	reporters about that. I don't recall whether that made	
01:27:27 8	A. Yes.		02:42:47 8	it into the final story or not, so I don't know whether	
01:27:30 9	Q. And, in fact, you told Vanita Gupta that,		02:42:50 9	that was ever published." I see. When you say you	
01:27:34 10	didn't you?		02:42:54 10	spoke to reporters about that, what is the that to which	
01:27:35 11	A. I don't recall whether I did or not. I may		02:42:58 11	you were referring?	
01:27:38 12	have.		02:42:59 12	A. The predicate of your question which I	
01:27:38 13	Q. And similarly, in connection with the research		02:43:03 13	understood to be whether I had -- the fact that certain	
01:27:42 14	that you claim to be performing, you discovered Virginia		02:43:10 14	individuals listed in the report were noncitizens when	
01:27:47 15	voters who were not U.S. citizens at the time they had		02:43:13 15	they registered to vote.	
01:27:51 16	cast certain ballots; isn't that right?		02:43:16 16	DEPOSITION OFFICER: Counsel, I need break. My	
01:27:54 17	A. If we're talking about the research for this		02:43:18 17	computer froze.	
01:28:02 18	report, I don't recall whether I know the voting history		02:43:19 18	MR. LOCKERBY: Okay.	
01:28:06 19	of the individuals named in this report; and so I don't		02:43:20 19	THE VIDEOGRAPHER: We're off the record at	
01:28:08 20	know whether they cast ballots or not.		02:43:23 20	1:31 p.m.	
01:28:14 21	I don't recall ever seeing their voting		01:36:21 21	(A recess is taken.)	
01:28:16 22	history. I might have in the course of the research,		01:36:21 22	THE VIDEOGRAPHER: We are back on the record at	
01:28:18 23	but I don't remember.		01:36:24 23	1:36 p.m.	
01:28:19 24	Q. Well -- but you did talk with some Virginia		01:36:26 24	MR. LOCKERBY: I'm sorry. If you could please	
01:28:22 25	voters who were noncitizens; right?		01:36:29 25	read the last portion before we went off, that would be	
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01:28:30 1	A. I don't know.		01:36:32 1	helpful.	
01:28:45 2	Q. Did you -- did you ever publish your findings		01:36:36 2	DEPOSITION OFFICER: I can't. I have to open	
01:28:49 3	that certain Virginia voters who were not U.S. citizens		01:36:37 3	up a file.	
01:28:56 4	-- or that certain Virginia voters had registered to		01:36:39 4	MR. LOCKERBY: But you did it after we were	
01:28:59 5	vote at a time when they were not U.S. citizens?		01:36:41 5	done with the question and answer; correct?	
01:29:01 6	A. I did not publish findings about this report or		01:36:47 6	DEPOSITION OFFICER: I took it down. I just	
01:29:09 7	about Virginia noncitizens voting at all, and so I don't		01:36:48 7	can't open up the file right now.	
01:29:17 8	consider that I came to conclusive findings one way or		01:36:51 8	MR. LOCKERBY: That's fine. That's fine.	
01:29:21 9	another.		01:36:52 9	I'd like to have this marked as Exhibit 31,	
01:29:28 10	Q. You have commented publicly on the alien		01:36:55 10	please.	
01:29:34 11	invasion reports; isn't that right?		01:37:13 11	Did I give you two copies of that by mistake?	
01:29:36 12	A. I have.		01:37:13 12	(Whereupon the document referred to is marked	
01:29:37 13	Q. And in your public comments have you told --		01:37:13 13	by the reporter as Defense Exhibit 31 for	
01:29:40 14	have you stated that some of the people identified as		01:37:16 14	identification.)	
01:29:45 15	noncitizens in those reports, in fact, were noncitizens?		01:37:16 15	THE WITNESS: Yes.	
01:29:51 16	A. I don't remember. I may have.		01:37:16 16	MR. LOCKERBY: Thank you.	
01:29:57 17	Q. Sitting here today, you can't think of any		01:37:18 17	THE WITNESS: You bet.	
01:30:00 18	instance in which you did that; correct?		01:37:19 18	BY MR. LOCKERBY:	
01:30:06 19	A. I can't think of any instance in -- in which		01:37:22 19	Q. Exhibit 31 has been marked by us as Document	
01:30:09 20	those comments have become public. I can recall		01:37:29 20	16-1 through 16-7. This is a spreadsheet that you	
01:30:13 21	occasions on which I spoke to reporters about that. I		01:37:36 21	yourself created regarding your communications with	
01:30:19 22	don't recall whether that made it into the final story		01:37:41 22	Virginia voters; correct?	
01:30:22 23	or not, so I don't know whether that was ever published.		01:37:43 23	A. Correct.	
01:30:25 24	Q. When you say you spoke to voters about that,		01:37:44 24	Q. And the column e-mail indicates whether you, in	
01:30:30 25	what's the "that" to which you're referring?		01:37:55 25	fact, sent an e-mail to that particular voter; isn't	

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01:37:57 1	that right?		01:41:15 1	of Augustine Tsibu-Gyan, you've written, "Okay with	
01:37:58 2	A. Correct.		01:41:21 2	using his name in connection with debunking the report.	
01:37:58 3	Q. And was the text of the original e-mail the		01:41:26 3	Doesn't want to talk to reporters."	
01:38:10 4	same as the May 30, 2017, e-mail that we looked at		01:41:28 4	Those were your words; correct?	
01:38:17 5	earlier as part of Exhibit 28?		01:41:30 5	A. Correct.	
01:38:34 6	It was on the second page of Exhibit 28.		01:41:43 6	Q. And then under Wagner Walendy you wrote, "Gave	
01:38:38 7	A. Thank you.		01:41:48 7	him Allison's contact."	
01:38:41 8	The initial e-mail to, I believe, each		01:41:49 8	You gave him Allison Riggs' contact	
01:38:45 9	individual would have been approximately the same. I		01:41:53 9	information; isn't that right?	
01:38:53 10	did -- something may have occurred to me when I sent the		01:41:55 10	A. Correct.	
01:38:54 11	first e-mail. And so after sending a few, I modified		01:41:56 11	Q. And you never provided any legal advice to	
01:38:58 12	the text, approximately. It's also possible that I		01:42:04 12	Wagner Walendy yourself, did you?	
01:39:02 13	didn't e-mail all of these people at the same time, and		01:42:07 13	MR. BRIDGES: Objection. I'll withdraw that.	
01:39:05 14	so I might -- events in the world might have changed.		01:42:11 14	You're not asking for the substance of communication.	
01:39:10 15	Some of the e-mails reference different current events.		01:42:29 15	THE WITNESS: I may have offered some advice	
01:39:13 16	So I can't swear that every single one of the		01:42:31 16	that he would have construed as legal advice, but I do	
01:39:15 17	e-mails to every single one of these people was		01:42:34 17	not know.	
01:39:18 18	initially the same, but they were certainly similar.		01:42:37 18	MR. GORMAN: I've got to object.	
01:39:24 19	MR. GORMAN: Can we get clarification. Was		01:42:39 19	Based on the contents of this document, it	
01:39:26 20	this document created in anticipation of litigation?		01:42:41 20	appears that it contains references to communications	
01:39:30 21	MR. LOCKERBY: I'm going to object. That's --		01:42:45 21	with the Protect Democracy Project and the Southern	
01:39:37 22	I'm asking questions at this point, and that's not an		01:42:50 22	Coalition for Social Justice in anticipation of	
01:39:42 23	objection. That's simply a gratuitous question.		01:42:51 23	litigation. I think this is work product protected.	
01:39:47 24	MR. GORMAN: I just want to make sure this		01:42:53 24	MR. LOCKERBY: On its -- I'm not going to	
01:39:49 25	document is not a privilege or subject to a claim of		01:42:56 25	debate the issue with you. On its face, it reflects	
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01:39:52 1	work product immunity.		01:43:00 1	only communications with Virginia voters.	
01:39:54 2	MR. LOCKERBY: You have other ways of doing		01:43:03 2	MR. GORMAN: It reflects communications with	
01:39:56 3	that.		01:43:05 3	the Southern Coalition for Social Justice.	
01:39:57 4	I'd like to have this marked as Exhibit 32,		01:43:09 4	MR. LOCKERBY: Understand your position.	
01:40:17 5	please.		01:43:16 5	Under --	
01:40:17 6	(Whereupon the document referred to is marked		01:43:17 6	MR. GORMAN: I object to any further	
01:40:17 7	by the reporter as Defense Exhibit 32 for		01:43:19 7	questioning about this document.	
01:40:17 8	identification.)		01:43:20 8	MR. LOCKERBY: You've noted your objection.	
01:40:27 9	BY MR. LOCKERBY:		01:43:21 9	BY MR. LOCKERBY:	
01:40:27 10	Q. Exhibit 32 is a document that we've numbered		01:43:22 10	Q. Under the heading Kimone Campbell at the	
01:40:30 11	13, and these are notes that reflected your		01:43:25 11	bottom, you've written, "May be interested in further	
01:40:35 12	communications with certain Virginia voters; isn't --		01:43:30 12	action. Wants to review further. Okay with using story	
01:40:38 13	isn't that right?		01:43:34 13	but not name."	
01:40:45 14	A. Yes.		01:43:38 14	The reference to "using story but not name" --	
01:40:48 15	Q. And at the time of these communications, your		01:43:40 15	that was for purposes of reporters; correct?	
01:40:50 16	purpose in contacting them was to try to debunk the		01:43:43 16	MR. BRIDGES: Objection.	
01:40:55 17	Alien Invasion reports; isn't that right?		01:43:45 17	Based on Mr. Gorman's objection and asserting	
01:40:58 18	A. No.		01:43:49 18	that it's subject to his work product -- or his client's	
01:40:58 19	Q. Well, if you look under the name Raza Latif,		01:43:51 19	work product, you're not the holder of that.	
01:41:04 20	you see you've written, "Okay with using name in		01:43:54 20	I'm going to have to instruct you not to answer	
01:41:07 21	connection with debunking the report"?		01:43:55 21	based on his objection.	
01:41:09 22	A. Correct.		01:44:05 22	BY MR. LOCKERBY:	
01:41:09 23	Q. Those were your words; right?		01:44:05 23	Q. Under Fabian Lopez you've written, "Not okay	
01:41:12 24	A. Correct.		01:44:10 24	with using name. Okay with describing story."	
01:41:12 25	Q. And then similarly, if you look under the name		01:44:18 25	Did Mr. Lopez tell you that?	

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01:44:21 1	MR. BRIDGES: Same objection. Same	01:47:15 1	product --	01:47:15 2	MR. GORMAN: Well, then --	01:47:15 3	MR. LOCKERBY: -- testimony.
01:44:25 2	instruction.	01:47:15 4	MR. GORMAN: -- just put the document away and	01:47:17 5	ask him about his communications with these individuals.	01:47:19 6	MR. LOCKERBY: I'm not putting the document
01:44:29 3	BY MR. LOCKERBY:	01:47:20 7	away.	01:47:21 8	BY MR. LOCKERBY:	01:47:22 9	Q. Under Fabian Lopez, where you've written, "Not
01:44:30 4	Q. Under the name Mary Kanani, at the bottom	01:47:26 10	okay with using name," that statement reflected your	01:47:34 11	communications with Fabian Lopez, not your	01:47:37 12	communications with attorneys at the Southern Coalition
01:44:36 5	you've written, "Registered now. Okay with talking	01:47:41 13	for Social Justice or the Protect Democracy Project;	01:47:46 14	isn't that right?	01:47:46 15	A. Correct.
01:44:39 6	about situation but not using name."	01:47:47 16	Q. And then on the page before, under Kimone	01:47:55 17	Campbell, where you've written at the bottom, "May be	01:47:59 18	interested in further action. Wants to review further.
01:44:44 7	Again, you were talking with Mary Kanani about	01:48:02 19	Okay with using story but not name," that statement --	01:48:09 20	or those two sentences reflect your communications with	01:48:15 21	Kimone Campbell, not with attorneys at the Southern
01:44:48 8	possibly publicizing her situation but not using her	01:48:20 22	Coalition for Social Justice or the Protect Democracy	01:48:22 23	Project; isn't that right?	01:48:23 24	A. One of those statements reflects potential
01:44:53 9	name in litigation; isn't that right?	01:48:31 25	legal advice that a client may have anticipated, and so				
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01:45:08 12	MR. GORMAN: Counsel, there's been an objection	01:48:34 1	I don't feel comfortable answering that question	01:48:37 2	without --	01:48:37 3	Q. Okay.
01:45:09 13	to work product; and you're continuing to question him	01:48:39 4	MR. GORMAN: The witness has just testified	01:48:40 5	this document contains information that may be	01:48:43 6	attorney-client privilege, and you're continuing to ask
01:45:11 14	about this document. I mean, it's not every line of the	01:48:46 7	about it.	01:48:46 8	MR. LOCKERBY: Under Kimone --	01:48:47 9	MR. GORMAN: This document should clawed back.
01:45:13 15	document; but there are lines in this document that	01:48:49 10	This is outrageous.	01:48:50 11	MR. LOCKERBY: What is outrageous is your	01:48:52 12	interference in the deposition.
01:45:16 16	contain references to communication with plaintiff's	01:48:53 13	BY MR. LOCKERBY:	01:48:54 14	Q. Under Kimone Campbell, the statement down at	01:48:58 15	the bottom, the very last sentence -- or two sentences
01:45:20 17	counsel.	01:49:03 16	at the bottom, those reflect your communications with	01:49:07 17	Kimone Campbell, not with attorneys for the Southern	01:49:12 18	Coalition for Social Justice or the Protect Democracy
01:45:21 18	MR. LOCKERBY: I haven't asked about any of	01:49:15 19	Project; isn't that right?	01:49:15 20	MR. BRIDGES: Based upon your recollection, I'm	01:49:18 21	objecting that that invades the attorney-client
01:45:23 19	those, but I'm not going to --	01:49:20 22	privilege.	01:49:21 23	On that basis, I'm instructing you not to	01:49:23 24	answer.
01:45:23 20	MR. GORMAN: You specifically did ask about	01:49:23 25	And we will, on that basis, be making a request				
01:45:25 21	those.						
01:45:25 22	BY MR. LOCKERBY:						
01:45:27 23	Q. Under the name Lucania Freeman, where you						
01:45:34 24	write, "May be okay with using name but scared," that						
01:45:37 25	notation reflects a communication with Lucania Freeman,						

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01:49:27 1	to claw back this document for redaction, if no other		01:51:57 1	please.	
01:49:31 2	purpose.		01:51:57 2	And just anticipating the objection, there are	
01:49:31 3	You're so advised.		01:52:01 3	pages of Exhibit 33 that are the same as Exhibit 32. So	
01:49:43 4	MR. LOCKERBY: Well, what we're going to have		01:52:06 4	I understand you have the same objections. There are	
01:49:45 5	to do with that is that's an issue that we're going to		01:52:08 5	other pages that are different, and you may not have the	
01:49:48 6	have to have a federal judge review these in camera and		01:52:11 6	same objections. And I'm going to ask about those.	
01:49:52 7	make that -- that determination. But we can talk about		01:52:11 7	(Whereupon the document referred to is marked	
01:49:54 8	that.		01:52:11 8	by the reporter as Defense Exhibit 33 for	
01:49:55 9	MR. GORMAN: You're refusing to turn back the		01:52:14 9	identification.)	
01:49:57 10	document? He's -- he's made a clawback request.		01:52:14 10	MR. BRIDGES: Let me look at this. Perhaps we	
01:50:01 11	MR. LOCKERBY: I'm refusing at this time. I'm		01:52:17 11	should separate that because you put it together in this	
01:50:04 12	suggesting that rather than engaging in self-help on		01:52:19 12	form.	
01:50:08 13	either side -- don't laugh at me.		01:52:20 13	MR. LOCKERBY: No. Actually, I didn't put it	
01:50:09 14	MR. GORMAN: I'm just --		01:52:21 14	together in this form. This is how it was produced.	
01:50:10 15	MR. LOCKERBY: Do not -- you need to show --		01:52:37 15	MR. GORMAN: Yeah. I object. This document	
01:50:13 16	you need to act properly during this deposition.		01:52:39 16	reflects confidential communications with Southern	
01:50:17 17	I'm saying that that's a determination that		01:52:43 17	Coalition for Social Justice at a minimum.	
01:50:19 18	needs to be made by a judge, and it's not going to be		01:52:45 18	MR. LOCKERBY: I think it would be helpful to	
01:50:23 19	made by me. It's not going to be made by you.		01:52:47 19	have counsel identify on the record which pages of this	
01:50:26 20	MR. BRIDGES: My understanding is -- correct me		01:52:52 20	document supposedly reflect confidential communications	
01:50:28 21	if I'm wrong -- there is a protective order in this		01:52:56 21	with Southern Coalition for Social Justice.	
01:50:30 22	case.		01:53:02 22	MR. GORMAN: There are references to an	
01:50:30 23	MR. LOCKERBY: There is.		01:53:04 23	attorney and to communications with attorney at the	
01:50:30 24	MR. BRIDGES: And the protective order has a		01:53:06 24	Southern Coalition for Social Justice.	
01:50:31 25	clawback provision in it; correct?		01:53:09 25	MR. LOCKERBY: My question was, What pages and	
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01:50:33 1	MR. LOCKERBY: It does.		01:53:12 1	lines of this --	
01:50:34 2	MR. BRIDGES: And does that protective order		01:53:12 2	MR. GORMAN: That information -- the	
01:50:36 3	activate such that when the clawback request is made,		01:53:13 3	information is work product protected. It's throughout	
01:50:40 4	the document is supposed to be returned pending a		01:53:17 4	the document. I mean, it's -- it's not a significant	
01:50:43 5	resolution of that action or challenge --		01:53:26 5	number of redactions. It --	
01:50:44 6	MR. LOCKERBY: It may well say that. And if		01:53:28 6	MR. LOCKERBY: Well, it is in view of the fact	
01:50:46 7	it's --		01:53:30 7	these documents were produced a while ago, that counsel	
01:50:46 8	MR. BRIDGES: -- based -- I'm sorry. Let me		01:53:35 8	for Southern Coalition for Social Justice and the	
01:50:48 9	finish.		01:53:39 9	Protect Democracy Project were late as it was in	
01:50:48 10	MR. LOCKERBY: Absolutely.		01:53:41 10	asserting the objection. Plenty of time to withhold or	
01:50:48 11	MR. BRIDGES: And based upon that, I am making		01:53:46 11	redact documents. And clearly, not all of this has --	
01:50:50 12	the request that copies of this document be returned to		01:53:52 12	in fact, most of it has nothing to do with	
01:50:54 13	me at this time pursuant to that protective order		01:53:55 13	communications with Southern Coalition for Social	
01:50:56 14	subject, of course, to you doing whatever you like under		01:53:59 14	Justice and the Protect Democracy Project.	
01:50:59 15	that protective order to reobtain a copy of that		01:54:01 15	We're on a very tight discovery deadline in	
01:51:01 16	document.		01:54:03 16	this case; and most of this has to do with facts, not	
01:51:01 17	MR. LOCKERBY: Okay. If it says that, that's		01:54:10 17	attorney mental impressions or communications relevant	
01:51:04 18	what we'll do. I don't have it in front of me. And		01:54:13 18	to the claims and defenses. And our discovery of the	
01:51:06 19	if -- I could give you every copy in front of me right		01:54:17 19	facts is being obstructed here. There is nothing work	
01:51:11 20	now, and that would not address your request because		01:54:21 20	product about saying that someone who's native born and	
01:51:14 21	there are other copies out there. During a break, we'll		01:54:25 21	has a passport, birth certificate, for example.	
01:51:17 22	look at the protective order; but either way, this is an		01:54:28 22	MR. GORMAN: Yeah. No. So let me -- let me	
01:51:20 23	issue that -- it will need to be taken up with the		01:54:31 23	just see if I can propose something. Because you're	
01:51:24 24	federal court.		01:54:35 24	right. There are -- there are references in this	
01:51:54 25	I'd like to have this marked as Exhibit 33,		01:54:37 25	document that I do not claim any work product protection	

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01:54:41 1	over.		01:56:59 1	So I will say on behalf of my client that we're	
01:54:41 2	We could -- you could proceed with questioning.		01:57:03 2	willing to accept the proffer of Mr. Gorman to allow you	
01:54:44 3	We could decline to enter this document into the record		01:57:08 3	to ask questions; but we would want, then, to further	
01:54:52 4	and provide you with a redacted version that deletes the		01:57:11 4	redact the documents. I will not allow him to answer	
01:54:54 5	few words on each page that I believe reflect		01:57:14 5	questions that I think implicate a question which may	
01:54:57 6	confidential communications with Southern Coalition for		01:57:18 6	have called for an attorney-client privilege.	
01:54:57 7	Social Justice.		01:57:20 7	But in the main, most of this document is not	
01:55:02 8	If you're asking about facts that aren't work		01:57:23 8	going to be affected by that, which is why you got it in	
01:55:05 9	product protected, then it won't affect the exhibit.		01:57:26 9	the first place. So that's just my -- my point in	
01:55:07 10	MR. LOCKERBY: Well, the problem is we're here		01:57:29 10	response to Mr. Gorman's offer because he speaks for his	
01:55:10 11	today for a deposition in a case in which discovery		01:57:32 11	clients with respect to their work product.	
01:55:13 12	ends --		01:57:34 12	MR. LOCKERBY: Rather than engaging in a	
01:55:14 13	MR. GORMAN: No. I'm saying you can ask the		01:57:36 13	guessing game, let me suggest that we go off the record;	
01:55:16 14	questions right now. We just wouldn't enter the exhibit		01:57:39 14	and then Mr. Gorman or whoever else needs to address	
01:55:18 15	in until it's been properly redacted.		01:57:48 15	this can look at Exhibits 32 and 33 and let me know	
01:55:22 16	MR. LOCKERBY: Well, which parts of the exhibit		01:57:53 16	which lines of these should be redacted; and I won't at	
01:55:26 17	is it the position of Southern Coalition for Social		01:57:59 17	this time ask any questions about the portions for which	
01:55:29 18	Justice and the Protect Democracy Project that I'm not		01:58:02 18	you're seeking redaction. That would be the most	
01:55:32 19	supposed to ask questions about?		01:58:05 19	efficient way to address this. Then we can substitute	
01:55:33 20	MR. GORMAN: There are references to an		01:58:09 20	redacted copies later.	
01:55:35 21	attorney whose first name is Alesha. That's what I see		01:58:12 21	MR. GORMAN: So I believe I've already	
01:55:38 22	immediately.		01:58:13 22	identified the references just to an individual by the	
01:55:43 23	MR. LOCKERBY: On the first page it says,		01:58:17 23	name of Alesha.	
01:55:46 24	"Contacted Alesha."		01:58:22 24	MR. LOCKERBY: On exhibit -- I have Exhibit 32	
01:55:46 25	MR. GORMAN: That's right.		01:58:25 25	in front of me. Under Raza Latif, I take it that you	
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01:55:47 1	MR. LOCKERBY: The fact that he contacted		01:58:35 1	want to redact the sentence that that says --	
01:55:48 2	Alesha is not work product.		01:58:40 2	DEPOSITION OFFICER: Do you want this on the	
01:55:50 3	MR. GORMAN: The fact that he contacts Alesha		01:58:41 3	record?	
01:55:52 4	about that particular individual is.		01:58:42 4	MR. LOCKERBY: I was trying -- suggesting to do	
01:55:54 5	MR. LOCKERBY: It doesn't say that.		01:58:45 5	it off the record; but apparently, they want to do it	
01:56:10 6	MR. BRIDGES: I think the suggestion Mr. Gorman		01:58:50 6	some other way.	
01:56:12 7	proposes makes sense. You can proceed with your		01:58:50 7	MR. BRIDGES: I'm willing to go off the record	
01:56:14 8	questioning.		01:58:53 8	to have this discussion.	
01:56:14 9	The only thing I would add is there is one		01:58:54 9	MR. GORMAN: I just don't think we need to.	
01:56:17 10	sentence on here that's been identified which may		01:58:56 10	It's the same issue for me, for my clients, which is the	
01:56:19 11	indicate a response to an inquiry, and that we are going		01:58:58 11	references to an attorney named Alesha. And I believe	
01:56:23 12	to assert attorney-client privilege to. I will not		01:59:00 12	there was at least some testimony about an inquiry from	
01:56:25 13	allow him to testify to that, and I would redact it.		01:59:05 13	an individual where there was an attorney-client	
01:56:28 14	There may be others.		01:59:07 14	objection. But that's not my objection.	
01:56:29 15	But keep in mind we produced in short order		01:59:10 15	MR. LOCKERBY: All right. On the first page of	
01:56:32 16	thousands of pages of documents, and we did so with the		01:59:10 16	Exhibit 32, we would redact -- you're proposing to	
01:56:35 17	intention of allowing you to ask questions until such		01:59:14 17	redact, "Gave Alesha contact info" --	
01:56:39 18	time as an attorney-client question may have arisen or a		01:59:17 18	MR. GORMAN: Can we not --	
01:56:44 19	request for legal advice, and then we brought the		01:59:19 19	MR. LOCKERBY: -- "and contacted Alesha."	
01:56:47 20	curtain down.		01:59:20 20	MR. GORMAN: The point is, is that it's work	
01:56:48 21	So it surprises me not that there is a line or		01:59:20 21	product protected and redact it. We're not putting	
01:56:49 22	two in here that needs to be redacted. I assume that		01:59:22 22	these comments on the record.	
01:56:53 23	was the intention of the parties by putting a clawback		01:59:24 23	MR. LOCKERBY: Okay. Then let's go off the	
01:56:55 24	provision in the protective order. We know what happens		01:59:26 24	record, and why don't you mark up Exhibits 32 and 33	
01:56:58 25	in these sort of cases.		01:59:30 25	with what you claim should be redacted, and I'll ask	

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01:59:33 1	questions about the rest of it. I suggested doing it off the record. You wanted to do it on the record.	02:39:24 1	with using name. Okay with describing story."	02:39:27 2	Is that consistent with what Fabian Lopez told you?	02:39:31 3	A. Yes.
01:59:36 2		02:39:31 5	Q. And under Mary Kanani, last line before the redaction, she told you, "Okay with talking about	02:39:40 6	situation but not using name"; correct?	02:39:44 7	
01:59:39 3	Then I did it on the record, and you wanted to do it off the record. So we'll go off the record, and take as much time as you like, and we'll come back when you're done.	02:39:47 8	A. Correct.	02:39:47 9	Q. And under Luciana Freeman, where you've written, "May be okay with using name but scared," that's consistent with what she told you; correct?	02:39:55 10	
01:59:41 4		02:40:00 12	A. Correct.	02:40:01 13	Q. Under Bobby Woods you've written, quote, Okay with using name in connection with debunking the report.	02:40:07 14	
01:59:44 5		02:40:12 15	You discussed with Mr. Woods possibly using his name to debunk the report; isn't that right?	02:40:15 16	A. Yes. I don't recall who brought up debunking the report, but yes.	02:40:19 17	
01:59:46 6		02:40:26 18	Q. And debunking the report is a phrase that you use -- one, two, three -- four times in Exhibit 32;	02:40:28 19	correct?	02:40:33 20	
01:59:48 7	MR. GORMAN: That's fine with me.	02:40:33 21	A. Correct.	02:40:41 22	Q. And similarly, under Cameron Weidenhof, you've written, quote, He's okay with using his name in connection with debunking the report, close quote.	02:40:42 23	
01:59:51 8	THE VIDEOGRAPHER: We're off the record at 1:59 p.m.	02:40:48 24		02:40:51 25		02:40:54 1	That's what you wrote; correct?
01:59:52 9	(A recess is taken.)					02:40:56 2	A. Correct.
01:59:54 10	THE VIDEOGRAPHER: We are back on the record at 2:36 p.m.					02:40:56 3	Q. And now if you could look, please, at
02:36:48 11						02:41:07 4	Exhibit 33. And in Exhibit 33 the first three pages address the same voters as identified in Exhibit 32;
02:36:51 12						02:41:19 5	isn't that right?
02:36:54 13	MR. LOCKERBY: While we were off the record, counsel for plaintiffs, counsel for plaintiff's counsel, and counsel for Loyola and Mr. Levitt conferred and have come up with redacted versions of Exhibits 32, 33, which we will use as the official deposition exhibits. And we will make sure that the originals get clawed back in accordance with protective order until such time as the Court resolves any issues about the claims of work product and attorney-client privilege.					02:41:28 6	A. Yes.
02:36:56 14						02:41:30 7	MR. GORMAN: Just a point of clarification. I don't think that's --
02:37:03 15						02:41:36 8	MR. LOCKERBY: They're in a different order.
02:37:10 16						02:41:42 11	MR. GORMAN: Different order? Okay.
02:37:15 17						02:41:44 12	BY MR. LOCKERBY:
02:37:22 18						02:41:44 13	Q. Address the same voters; correct?
02:37:26 19						02:41:45 14	A. Correct.
02:37:29 20						02:41:46 15	Q. And then if you look on the fourth page, there are -- one, two, three, four -- five additional
02:37:34 21	Court resolves any issues about the claims of work product and attorney-client privilege.					02:41:51 16	individuals that were not named in the Exhibit 32; is that right?
02:37:36 22	Is that -- anything else we need to say on that?					02:41:56 17	
02:37:39 23						02:41:56 18	
02:37:40 24	MR. GORMAN: Yeah. And there was an agreement that to the extent any of those now redacted portions					02:42:13 19	A. Correct.
02:37:42 25						02:42:22 20	Q. Under the name Gracia Gadju there are a series of questions. Was that series of questions that you intended to ask if you spoke with these people or in e-mails? What was the purpose of that series of questions?
						02:42:28 21	
						02:42:35 22	
						02:42:38 23	
						02:42:41 24	
						02:42:41 25	A. Yes. That's correct. This was a series of
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02:37:46 1	were read into the record, that the objections were timely asserted. It's not a waiver for them to stay on the transcript or on the video.	02:40:54 1	That's what you wrote; correct?	02:40:56 2	A. Correct.	02:40:56 3	Q. And now if you could look, please, at
02:37:49 2		02:41:07 4	Exhibit 33. And in Exhibit 33 the first three pages address the same voters as identified in Exhibit 32;	02:41:19 5	isn't that right?	02:41:28 6	A. Yes.
02:37:52 3		02:41:30 7	MR. GORMAN: Just a point of clarification. I don't think that's --	02:41:36 8	MR. LOCKERBY: They're in a different order.	02:41:42 11	MR. GORMAN: Different order? Okay.
02:37:53 4	MR. BRIDGES: So stipulated.	02:41:44 12	BY MR. LOCKERBY:	02:41:44 13	Q. Address the same voters; correct?	02:41:44 14	A. Correct.
02:37:55 5	MR. LOCKERBY: Agreed.	02:41:45 14		02:41:45 15	Q. And then if you look on the fourth page, there are -- one, two, three, four -- five additional	02:41:46 16	
02:37:57 6	BY MR. LOCKERBY:	02:41:46 17	individuals that were not named in the Exhibit 32; is that right?	02:41:51 16		02:41:56 17	
02:37:59 7	Q. If you can look back, please, at Exhibit 32	02:41:56 18		02:41:56 18		02:42:13 19	A. Correct.
02:38:02 8	under the name Kimone Campbell. Kimone Campbell told you, "Okay with using story that I made"; correct?	02:42:22 20		02:42:22 20	Q. Under the name Gracia Gadju there are a series of questions. Was that series of questions that you intended to ask if you spoke with these people or in e-mails? What was the purpose of that series of questions?	02:42:28 21	
02:38:12 9		02:42:28 21		02:42:28 21		02:42:35 22	
02:38:15 10		02:42:35 22		02:42:35 22		02:42:38 23	
02:38:15 11		02:42:38 23		02:42:38 23		02:42:41 24	
02:38:24 12		02:42:41 24		02:42:41 24		02:42:41 25	
02:38:29 13		02:42:41 25					
02:38:35 14	A. So I'm not going to discuss what individuals thought about whether they were going to be parties to litigation or not. That was not the purpose for my making that comment in these documents, and so I don't think I can answer your question.						
02:38:39 15							
02:38:41 16							
02:38:44 17							
02:38:49 18							
02:38:50 19	Q. Fair enough.						
02:38:50 20	So you were talking to these individuals about publicizing the fact that they were, in fact, citizens?						
02:38:55 21							
02:39:01 22	A. I was inquiring whether they would be willing to or interested in publicize that, yes.						
02:39:06 23							
02:39:09 24	Q. And then similarly, on the second page of Exhibit 32, under Fabian Lopez you've written, "Not okay						
02:39:17 25							

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02:42:43 1	questions to ascertain the facts of what happened, to		02:45:35 1	That was a false statement, wasn't it?	
02:42:49 2	the best of their knowledge.		02:45:39 2	A. No.	
02:42:54 3	Q. And below that series of questions, there's		02:45:40 3	Q. You weren't trying to track down the source of	
02:42:59 4	something that begins with the line, "Question from		02:45:42 4	the incorrect information. You knew the source, didn't	
02:43:02 5	researcher about your name and voter registration		02:45:45 5	you?	
02:43:06 6	report."		02:45:46 6	A. No.	
02:43:07 7	Was that the subject line for an e-mail to send		02:45:47 7	Q. In fact, the information regarding these	
02:43:09 8	to Virginia voters?		02:45:53 8	individuals was in records that were attached as	
02:43:11 9	A. Yes.		02:45:57 9	exhibits to the Alien Invasion reports; isn't that true?	
02:43:11 10	Q. Do you know approximately when you drafted this		02:46:03 10	A. There was information about the individuals,	
02:43:24 11	e-mail?		02:46:08 11	yes. The incorrect information in the report was the	
02:43:27 12	A. I don't. I know that it was after speaking		02:46:14 12	information declaring that these individuals had been	
02:43:32 13	with some voters and before speaking with others, but I		02:46:18 13	noncitizens when they registered.	
02:43:35 14	don't know further than that. I know that it was also		02:46:27 14	Q. So did you think that the individuals that you	
02:43:41 15	after one of the individuals responsible for the report		02:46:30 15	were contacting were the source of the incorrect	
02:43:45 16	had been appointed to a national voting advisory body.		02:46:32 16	information in the report?	
02:43:49 17	So I can tell you when it's after, but I don't know		02:46:40 17	A. I did not know, which was why I was contacting	
02:43:51 18	about when it was.		02:46:42 18	them. I knew that some of the information in the report	
02:43:52 19	Q. In that paragraph you say, "One of the people		02:46:57 19	had been incorrect, and I did not know whether there was	
02:43:59 20	responsible for the report has just been appointed to a		02:47:00 20	a systemic reason for that.	
02:44:02 21	national voting advisory body."		02:47:02 21	Q. Well, in fact, if you wanted to find out why	
02:44:04 22	Were you referring to Mr. Adams?		02:47:09 22	there was supposedly incorrect information in the	
02:44:06 23	A. I was.		02:47:12 23	report, wouldn't the best source have been either the	
02:44:06 24	Q. And were you referring to the Presidential		02:47:15 24	state department of elections in Virginia, the local	
02:44:10 25	Advisory Commission on Electoral Integrity?		02:47:17 25	registrar, or the authors and publishers of the report?	
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02:44:12 1	A. Yes.		02:47:23 1	MR. BRIDGES: Objection.	
02:44:13 2	Q. And when was that commission established, if		02:47:23 2	BY MR. LOCKERBY:	
02:44:17 3	you recall?		02:47:23 3	Q. Wouldn't they be the best sources?	
02:44:18 4	A. I don't recall exactly.		02:47:25 4	MR. BRIDGES: Objection. Argumentative.	
02:44:19 5	Q. But whenever it was, this e-mail was drafted --		02:47:26 5	THE WITNESS: Not necessarily. They would have	
02:44:26 6	or the text of this e-mail was drafted after the		02:47:28 6	been additional sources, but not necessarily.	
02:44:29 7	commission was set up?		02:47:32 7	BY MR. LOCKERBY:	
02:44:30 8	A. Correct.		02:47:32 8	Q. Did you ever contact the Virginia Department of	
02:44:30 9	Q. And you also wrote, "Quite a few people have		02:47:36 9	Elections to find out what information the department of	
02:44:38 10	told me already that their information is not correct,		02:47:40 10	elections had provided to PILF?	
02:44:40 11	and they're understandably quite upset about it."		02:47:44 11	A. No.	
02:44:44 12	A. Correct.		02:47:46 12	Q. Did you ever contact any registrars in the	
02:44:44 13	Q. As of the date you drafted this e-mail,		02:47:49 13	Commonwealth of Virginia to find out what information	
02:44:48 14	whenever it was, how many people told you that the		02:47:53 14	the registrars had provided to PILF?	
02:44:52 15	information was not correct and that they were upset?		02:47:55 15	A. I attempted to, yes.	
02:44:55 16	A. I don't recall exactly, but I -- I		02:47:57 16	Q. What did you do to attempt to contact the	
02:45:00 17	characterized that as quite a few, and I would -- I		02:48:00 17	registrars?	
02:45:03 18	would stand by that.		02:48:01 18	A. I called the registrar's list of numbers and	
02:45:09 19	Q. Of the quite a few that you referenced, only		02:48:07 19	indicated that I would be interested in speaking with	
02:45:16 20	one, Luciana Freeman, became a plaintiff in this case;		02:48:09 20	them.	
02:45:16 21	correct?		02:48:10 21	Q. Did they speak with you?	
02:45:21 22	A. That's my understanding.		02:48:11 22	A. I called not all of the registrars. Several	
02:45:22 23	Q. In the paragraph that begins with the word		02:48:15 23	registrars.	
02:45:28 24	"specifically," you write, "I'm trying to track down the		02:48:15 24	Q. Which ones did you call?	
02:45:32 25	source of the incorrect information in the report."		02:48:16 25	A. I don't remember precisely. I don't remember	

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02:48:28 1	precisely.		02:52:38 1	Southern Coalition for Social Justice would be putting	
02:48:29 2	Q. Did you ever submit or have submitted on your		02:52:40 2	out a press release mentioning the report and the fact	
02:48:33 3	behalf either a FOIA request or an NVRA request to any		02:52:43 3	that various individuals had supposedly been incorrectly	
02:48:38 4	of the Virginia registrars?		02:52:49 4	identified as noncitizens in the reports?	
02:48:40 5	A. No.		02:52:52 5	MR. LEBOWITZ: Objection. Lacks foundation.	
02:48:41 6	Q. And did you ever ask anyone at PILF the source		02:52:57 6	THE WITNESS: Yeah. I -- I don't know that I	
02:48:48 7	of what you call the incorrect information in the		02:52:59 7	knew that a press release was forthcoming.	
02:48:51 8	report?		02:53:02 8	BY MR. LOCKERBY:	
02:49:01 9	A. No. I did ask why they had published incorrect		02:53:02 9	Q. But you have seen press releases put out by the	
02:49:06 10	information, but I did not ask the source of that		02:53:05 10	Southern Coalition for Social Justice about this	
02:49:10 11	incorrect information.		02:53:08 11	complaint and developments in this case, have you not?	
02:49:26 12	Q. In the next paragraph you add a link to your		02:53:11 12	A. I believe so. I don't recall whether I had	
02:49:31 13	faculty Web page at Loyola Law School; is that right?		02:53:21 13	conversations with these individuals --	
02:49:34 14	A. Correct.		02:53:25 14	Q. At the time --	
02:49:34 15	Q. And that was consistent with your statement a		02:53:27 15	A. -- leading up to the press release.	
02:49:41 16	couple paragraphs above that, quote, I'm a law professor		02:53:29 16	Q. And at the time you had the conversations with	
02:49:44 17	looking into the report's allegations, close quote;		02:53:31 17	these individuals, did you know that the Southern	
02:49:44 18	correct?		02:53:37 18	Coalition for Social Justice was contemplating putting	
02:49:49 19	A. Correct.		02:53:40 19	out press releases about this litigation?	
02:49:49 20	Q. In the paragraph that begins with the words "I		02:53:47 20	A. No.	
02:49:58 21	know," you go on in the third sentence to state, "But if		02:54:08 21	MR. LOCKERBY: I'd like to have this marked as	
02:50:01 22	the information in the report is incorrect, I'd like to		02:54:09 22	Exhibit 34, please.	
02:50:05 23	be of assistance in making that clear and doing what I		02:54:27 23	Sorry, guys. We're back to sharing.	
02:50:08 24	can to set things straight."		02:54:27 24	///	
02:50:12 25	What is it that -- what kind of assistance did		02:54:27 25	///	
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02:50:14 1	you have in mind to make clear that there was incorrect		02:54:27 1	(Whereupon the document referred to is marked	
02:50:17 2	information in the report?		02:54:27 2	by the reporter as Defense Exhibit 34 for	
02:50:20 3	A. If the individual were so inclined to publicize		02:54:30 3	identification.)	
02:50:30 4	the fact that the information related to the individual		02:54:30 4	MR. GORMAN: That's fine.	
02:50:33 5	was incorrect. Beyond that, I wanted to inquire of		02:54:31 5	MR. LOCKERBY: Actually, I spoke too soon.	
02:50:53 6	individuals what they cared to do, if anything. And I		02:54:47 6	BY MR. LOCKERBY:	
02:51:00 7	don't know that I can speak further without violating		02:54:47 7	Q. Exhibit 34 is a multipage document because it	
02:51:03 8	either their privilege or privilege of counsel in this		02:54:52 8	was produced that way. We've numbered all these	
02:51:05 9	matter.		02:54:54 9	different pages as -- because it was one PDF, as No. 12.	
02:51:07 10	Q. Well, if the information in the report was		02:55:02 10	And I'd like you to look first, please, at the Pages 3	
02:51:09 11	incorrect, wouldn't the best way of helping them to be		02:55:10 11	through 6 of the PDF.	
02:51:15 12	to correct the report so that it was no longer		02:55:17 12	A. Okay.	
02:51:19 13	incorrect?		02:55:17 13	Q. And you see there is some e-mail exchanges with	
02:51:26 14	A. Potentially. That would not remedy the		02:55:21 14	Cameron Bell?	
02:51:29 15	incorrect statements made about them and put out into		02:55:26 15	A. Yes.	
02:51:32 16	the public. That would not fully remedy incorrect		02:55:27 16	Q. And Cameron Bell at the time was a lawyer at	
02:51:37 17	statements made about them and put out to the public.		02:55:32 17	the U.S. Department of Justice; correct?	
02:51:40 18	Q. When you contacted these hundreds of		02:55:35 18	A. I don't know when she started.	
02:51:42 19	individuals in the Commonwealth of Virginia, did you		02:55:38 19	Q. You know at some point she was a lawyer at the	
02:51:47 20	find any who had already heard about the report and the		02:55:45 20	U.S. Department of Justice?	
02:51:50 21	references to them in the report?		02:55:47 21	A. Actually, I'll respond to the earlier question.	
02:51:53 22	A. I -- I don't know that I agree with the		02:55:50 22	I know that she was not at this point.	
02:51:56 23	premise. I -- I contacted hundreds, but I did not hear		02:55:53 23	Q. Where was she at that point?	
02:51:59 24	back from hundreds. I don't believe so.		02:55:54 24	A. At that point she was working for an	
02:52:18 25	Q. Did you tell any of these individuals that the		02:55:57 25	organization called Demos.	

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02:55:58 1	Q. What is Demos?	A. It's a nonpartisan, nonprofit organization.	03:00:01 1	before actually receiving contact from them. I don't know.	I told reporters at some point that I had contacted voters, yes. I don't know whether I had told them by June 1st.
02:55:59 2			03:00:05 2		
02:56:08 3	Q. The subject matter of the e-mail at the top of -- I guess it's the third page, Tuesday, May 30,		03:00:08 3		
02:56:19 4	2017, 4:07 p.m. is "Welp."		03:00:11 4		
02:56:26 5			03:00:27 5	Q. Then if you could turn back, please, to the first two pages of -- the Exhibit 34.	
02:56:30 6	A. Correct.		03:00:30 6	A. Uh-huh.	
02:56:31 7	Q. What did you understand that to mean?		03:00:33 7	Q. At the top it's an e-mail dated Monday,	
02:56:33 8	A. I wrote it. That's an expression of dismay.		03:00:35 8	February 13, 2017, to Rick Pildes?	
02:56:45 9	Q. What were you expressing dismay over?		03:00:43 9		
02:56:48 10	A. I believe --		03:00:48 10	A. Correct.	
02:57:01 11	MR. BRIDGES: Don't guess.		03:00:49 11	Q. Who is Rick Pildes?	
02:57:02 12	THE WITNESS: Yeah. I don't know.		03:00:51 12	A. He's a law professor at NYU School of Law.	
02:57:05 13	BY MR. LOCKERBY:		03:00:55 13	Q. And when you wrote, "Very much off list," what did you mean by that?	
02:57:06 14	Q. Well, below, May 30, 2017, 3:29 p.m., Cameron		03:00:58 14	A. He wrote his initial e-mail to a Listserv of various and sundry people interested in election law. I replied to him off list.	
02:57:12 15	Bell's writing, "Does this make up for the aliens voting report?"		03:01:07 16	Q. In his original e-mail there is a reference to an ElectionLawBlog.org. Is that the Listserv, or is it a different mail address?	
02:57:17 16			03:01:13 17	A. It's related to that. So the blog is a blog.	
02:57:18 17	What did you understand her to be referring to there?		03:01:24 18	It is publicly available. There is a related Listserv that receives information from the blog but also comments on things that are in the blog.	
02:57:20 18			03:01:30 19	Q. And does the Listserv have a name, as far as	
02:57:25 19	A. I believe that's a hyperlink, and so I'd have to see the hyperlink to know.		03:01:36 20		
02:57:28 20			03:01:37 21		
02:57:42 21	Q. On the second page of this -- of this e-mail chain, it says, "On Tuesday, May 30, 2017, at 10:44 a.m.		03:01:41 22		
02:57:45 22	Justin Levitt wrote: 'Condolences on the news this morning.'"		03:01:45 23		
02:57:52 23			03:01:49 24		
02:57:56 24			03:01:51 25		
02:57:58 25	What were you offering condolences on?				
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02:58:01 1	A. That's -- that's what I can't remember.		03:01:54 1	you know?	
02:58:03 2	Q. If you look at the e-mail chain that begins on		03:01:55 2	A. If it's called anything, it's called The	
02:58:25 3	the very next page, Thursday, June 1st, 2017, 3:50 p.m.,		03:01:58 3	Election Law Listserv. I believe there is an invitation	
02:58:32 4	also on the subject "Welp," you've written, "Blech.		03:02:04 4	on the blog to join the Listserv.	
02:58:36 5	Sadly no response to my e-mails just yet."		03:02:10 5	Q. In the third paragraph you write, "I've never	
02:58:40 6	The e-mails you're referring to were the		03:02:16 6	attempted to quantify the number of noncitizens on the	
02:58:43 7	e-mails to Virginia voters identified in the exhibits to		03:02:20 7	rolls or those who have voted."	
02:58:49 8	the alien invasion reports; correct?		03:02:24 8	That was a true statement as of February 13,	
02:58:51 9	A. Correct.		03:02:29 9	2017; correct?	
02:58:59 10	Q. What had you told Ms. Bell about those e-mails		03:02:35 10	A. Sorry. You said the third paragraph? I	
02:59:02 11	as of June 1st, 2017?		03:02:37 11	don't -- I don't --	
02:59:08 12	A. I believe that I had mentioned that I was		03:02:38 12	Q. It's the one that begins with the sentence,	
02:59:14 13	contacting some of the voters in the report in order to		03:02:41 13	"This is one reason."	
02:59:18 14	find out whether they were correctly identified as		03:02:42 14	A. Ah, yes. Sorry.	
02:59:25 15	noncitizens who had unlawfully registered to vote.		03:02:43 15	Q. Yeah.	
02:59:29 16	Q. And other than Cameron Bell, who else had you		03:02:44 16	A. Small paragraphs.	
02:59:34 17	told as of June 1st, 2017, that you were contacting		03:02:46 17	Correct.	
02:59:38 18	various voters identified in the report?		03:02:48 18	Q. And at no time since February 13, 2017, have	
02:59:40 19	A. I cannot remember. I don't know.		03:02:55 19	you ever attempted to quantify the number of noncitizens	
02:59:48 20	Q. But Ms. Bell wasn't the only person you told		03:02:58 20	on the rolls or those who have voted; isn't that right?	
02:59:51 21	that to --		03:03:01 21	A. Correct.	
02:59:52 22	A. Correct.		03:03:22 22	Q. In that same paragraph, at the end you wrote,	
02:59:52 23	Q. -- is that right?		03:03:26 23	"One place to start would be to look for registration	
02:59:53 24	You told reporters that, too, hadn't you?		03:03:29 24	forms of individuals who themselves checked the box	
02:59:56 25	A. I don't remember whether I had told reporters		03:03:35 25	saying that they were not a citizen. Clerical errors	

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03:03:39	1	sometimes lead to registration of these individuals.	03:06:46	1	obtained by making an NVRA request; isn't that true?
03:03:41	2	See Page 14 here. But that's certainly a lower bound."	03:06:50	2	MR. BRIDGES: Objection. Lacks foundation.
03:03:45	3	Is it true that the number of individuals who	03:06:51	3	Calls for speculation.
03:03:49	4	check the box saying that they're not a citizen on a	03:06:52	4	THE WITNESS: To the extent that there were
03:03:52	5	voter registration application would be a lower bound of	03:06:55	5	timely requests, I understand that any individual could
03:03:56	6	the number of noncitizens on the roles?	03:06:59	6	have had a federal right to obtain those records and at
03:03:58	7	A. Yes.	03:07:01	7	the appropriate time, yes.
03:03:58	8	Q. In the last paragraph --	03:07:18	8	MR. LOCKERBY: I'd like to have this marked as
03:04:09	9	A. I should correct myself. It is possible but	03:07:19	9	Exhibit 35, please.
03:04:14	10	unlikely that some of those indications were themselves	03:07:19	10	(Whereupon the document referred to is marked
03:04:18	11	mistakes. And so it is possible that the lower bound is	03:07:19	11	by the reporter as Defense Exhibit 35 for
03:04:22	12	actually lower than that number.	03:07:36	12	identification.)
03:04:27	13	Q. In the final paragraph you write that,	03:07:36	13	THE WITNESS: Thank you.
03:04:30	14	"Discussions in this arena tend toward hysteria."	03:07:49	14	BY MR. LOCKERBY:
03:04:37	15	What were you referring to there?	03:07:49	15	Q. Exhibit 35 is entitled "Fake Voter Fraud Report
03:04:39	16	A. Discussions in the arena of whether there	03:07:56	16	Debunked By Woman Featured in Front Page Article."
03:04:45	17	are -- whether noncitizens register or vote and various	03:08:06	17	And this is something we've numbered No. 18.
03:04:51	18	discussions in -- over various years.	03:08:11	18	How did this come to your attention?
03:05:03	19	Q. And you had a link to a document in the e-mail.	03:08:14	19	A. I don't recall.
03:05:05	20	Was the link to one of the alien invasion reports?	03:08:29	20	Q. Did you provide any information to Progress
03:05:08	21	A. I believe so.	03:08:32	21	Virginia for use in this posting?
03:05:26	22	Q. And to the extent that the alien invasion	03:08:37	22	A. I don't believe so.
03:05:29	23	reports included NVRA records or records obtained	03:08:46	23	Q. Do you know whether the individual who is the
03:05:34	24	pursuant to the NVRA, do you know whether the redactions	03:08:50	24	subject of this article was, in fact, identified in a
03:05:37	25	were done by state and local officials or by PILF?	03:08:54	25	list of voters canceled due to noncitizen status
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03:05:42	1	A. I have no idea who performed the redactions on	03:08:57	1	provided by the Virginia Department of Elections?
03:05:45	2	any of the documents in the report.	03:09:08	2	THE WITNESS: Can I ask you to read the
03:05:46	3	Q. And you don't know whether any registrars in	03:09:09	3	question back for me.
03:05:50	4	the Commonwealth of Virginia sent out reports in	03:09:10	4	(The record is read by the reporter as
03:05:54	5	response to NVRA requests without redacting certain	03:09:10	5	follows:
03:05:58	6	information?	03:08:47	6	"Q. Do you know whether the individual who is
03:05:58	7	A. I don't.	03:08:49	7	the subject of this article was, in fact,
03:06:00	8	Q. So you don't know whether PILF was responsible	03:08:52	8	identified in a list of voters canceled due to
03:06:03	9	for that, do you?	03:08:56	9	noncitizen status provided by the Virginia
03:06:05	10	MR. BRIDGES: Objection.	03:09:00	10	Department of Elections?"
03:06:06	11	MR. LEBOWITZ: Objection.	03:09:34	11	MR. LEBOWITZ: I'll object to the form as
03:06:08	12	MR. BRIDGES: Vague and ambiguous as to "that."	03:09:35	12	lacking foundation.
03:06:11	13	THE WITNESS: And I have a further question	03:09:38	13	THE WITNESS: Yeah. And that was -- that was
03:06:12	14	about "responsible." To the extent that PILF published	03:09:39	14	what was causing my hesitation, is that I know there
03:06:16	15	information, I hold them responsible for publishing that	03:09:44	15	have been various representations about what information
03:06:19	16	information. I don't -- I don't know who's responsible	03:09:48	16	provided that is the subject of the Alien Invasion
03:06:25	17	for what information was transmitted on what forms in	03:09:53	17	report purports to show.
03:06:27	18	the process.	03:09:55	18	I believe that Ms. Erickson [phonetic] was
03:06:32	19	BY MR. LOCKERBY:	03:09:58	19	included in the list of individuals documented in that
03:06:32	20	Q. You understand that records obtained pursuant	03:10:02	20	report. I'm going to be hesitant to characterize
03:06:37	21	to the NVRA are a matter of public record; correct?	03:10:06	21	information sent by Virginia to PILF, which they
03:06:42	22	MR. LEBOWITZ: Objection. Vague.	03:10:15	22	themselves appear to have disclaimed.
03:06:43	23	THE WITNESS: Correct.	03:10:21	23	BY MR. LOCKERBY:
03:06:43	24	BY MR. LOCKERBY:	03:10:21	24	Q. The "they" to which you're referring, is that
03:06:43	25	Q. Anyone could obtain the records that PILF	03:10:25	25	the Virginia Department of Elections?

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03:10:27 1	A. Either the Virginia Department of Elections or	03:16:48 1	from over here. I think it's Exhibit 6.				
03:10:32 2	one or more registrars in Virginia. Official sources.	03:17:06 2	A. Okay. Is that the privilege log?				
03:10:35 3	I confess I don't remember whether it was state	03:17:11 3	Q. Yes.				
03:10:40 4	officials or county officials.	03:17:15 4	MR. BRIDGES: Which privilege log?				
03:10:46 5	Q. If you could look back, please -- I think it	03:17:17 5	THE WITNESS: Sorry. Mine.				
03:10:52 6	should still be over there. It wasn't marked as an	03:17:45 6	BY MR. LOCKERBY:				
03:10:57 7	exhibit. It's PILF Adams 15467 --	03:17:45 7	Q. And if you look at the last four pages of the				
03:11:07 8	A. Yes.	03:17:55 8	privilege log --				
03:11:10 9	Q. -- where the commissioner of the Virginia	03:18:03 9	A. Okay.				
03:11:15 10	Department of Elections writes, "This report shows	03:18:03 10	Q. -- and specifically -- I guess this would be				
03:11:17 11	individuals that were canceled due to self-reported	03:18:07 11	the third one from the end. There is a -- a June 27,				
03:11:22 12	noncitizen status and failed to complete an affirmation	03:18:14 12	2017, e-mail exchange with Augustine Tsibu-Gyan with an				
03:11:25 13	of citizenship in the allotted time frame and continued	03:18:21 13	e-mail from her to you and one from you to her. There				
03:11:29 14	to be a canceled status. If an individual was	03:18:32 14	were prior e-mail communications with this individual				
03:11:32 15	previously canceled and then subsequently affirmed	03:18:36 15	that have not been withheld or redacted on grounds of				
03:11:35 16	citizenship and was reregistered, they would no longer	03:18:40 16	attorney-client privilege; correct?				
03:11:40 17	appear on this report because they would now be on	03:18:42 17	A. Correct.				
03:11:43 18	active status."	03:18:42 18	Q. And when is it that you contend you entered				
03:11:50 19	Is this an example of a disclaimer to which you	03:18:45 19	into an attorney-client relationship with Augustine				
03:11:54 20	were referring?	03:18:50 20	Tsibu-Gyan?				
03:11:55 21	A. That wasn't the disclaimer that I -- to which I	03:18:51 21	MR. BRIDGES: Objection. Misstates the record.				
03:11:59 22	was specifically referring, no.	03:18:54 22	Assumes facts not established. Lacks foundation.				
03:12:01 23	Q. Okay. Have you had communications with Anna	03:19:00 23	Subject to that and without waiving any				
03:12:16 24	Scholl of Progress Virginia?	03:19:03 24	attorney-client communication, you can respond to the				
03:12:19 25	A. I don't believe so. It is possible that I have	03:19:05 25	question, if you can.				
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03:12:31 1	spoken to her in some context, but I don't -- I don't	03:19:07 1	THE WITNESS: I don't know whether we have				
03:14:11 2	remember.	03:19:10 2	entered that relationship or not.				
03:14:11 3	Q. I'd like you to look back, please, at what was	03:19:16 3	BY MR. LOCKERBY:				
03:14:14 4	marked as Exhibit 34 and, in particular, at the 15th	03:19:16 4	Q. So you don't know whether you ever entered into				
03:14:36 5	page, which is a June 27, 2017, e-mail from you to	03:19:19 5	an attorney-client relationship with Augustine				
03:14:46 6	Cameron Bell.	03:19:23 6	Tsibu-Gyan; is that right?				
03:14:47 7	A. Yes.	03:19:29 7	A. I don't know whether one was ever established.				
03:15:16 8	Q. When you wrote to Cameron Bell, "I've got a few	03:19:31 8	That's correct.				
03:15:20 9	folks writing me back now who are emphatically	03:19:33 9	Q. As of June 27, 2017, had Augustine Tsibu-Gyan				
03:15:25 10	citizens," were you telling her about the results of	03:19:43 10	sought your advice about Virginia law?				
03:15:27 11	your communications with Virginia voters?	03:19:51 11	MR. BRIDGES: Specifically about Virginia law?				
03:15:31 12	A. Yes.	03:19:53 12	MR. LOCKERBY: Yes.				
03:15:31 13	Q. Why were you telling Ms. Bell about what these	03:19:59 13	THE WITNESS: Are we asking as of that date or				
03:15:39 14	voters were writing back to you?	03:20:01 14	as of the day before that date?				
03:15:41 15	A. She expressed interest in whether this report	03:20:01 15	BY MR. LOCKERBY:				
03:15:44 16	was accurate or not.	03:20:11 16	Q. On or before June 27, 2017, did Augustine				
03:15:46 17	Q. And as of June 27, 2017, who, other than	03:20:18 17	Tsibu-Gyan seek your advice about Virginia law?				
03:15:54 18	Ms. Bell, had you told that you were hearing from voters	03:20:21 18	A. So if a attorney-client privilege was				
03:15:59 19	identified in the reports who, in fact, were citizens?	03:20:23 19	established, discussing whether or not that occurred				
03:16:02 20	A. I -- I can't recall. At some point I	03:20:28 20	might, in fact, invade the attorney-client privilege.				
03:16:06 21	publicized that. And so at some point the answer is	03:20:31 21	And so I don't believe I can answer that without waiving				
03:16:11 22	whoever -- whoever happened to be listening. But I	03:20:34 22	the privilege that isn't mine to waive.				
03:16:14 23	can't recall.	03:20:36 23	Q. Did something happen on August 27, 2017, that				
03:16:37 24	Q. Could you look back, please, at what's been	03:20:41 24	caused you to conclude that you might have an				
03:16:40 25	marked as exhibit -- of course, now it's disappeared	03:20:45 25	attorney-client relationship with Augustine Tsibu-Gyan?				

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03:20:48 1	A. Yes.		03:23:52 1	Entry No. 1.	
03:20:48 2	Q. What happened?		03:24:01 2	A. Okay.	
03:20:49 3	A. I cannot answer that question without invading		03:24:01 3	Q. Do you see that's dated June 27, 2017?	
03:20:52 4	the privilege that's not mine to waive.		03:24:05 4	A. I do.	
03:21:04 5	Q. Did you ever tell Augustine Tsibu-Gyan that you		03:24:08 5	Q. And that's an e-mail from you to Allison Riggs;	
03:21:09 6	would be sharing things that she told you with third		03:24:13 6	isn't that right?	
03:21:15 7	parties?		03:24:13 7	A. It is.	
03:21:15 8	MR. BRIDGES: Objection. Attorney-client		03:24:13 8	Q. And the privilege description is,	
03:21:17 9	privilege.		03:24:20 9	"Communication Between Counsel Re Information Gathered	
03:21:18 10	If you can answer that without invading the		03:24:23 10	in Investigation Into Anticipated Claims."	
03:21:21 11	client privilege, you may do so. Otherwise, so indicate		03:24:27 11	That's what it says; right?	
03:21:24 12	and do not respond.		03:24:28 12	A. That is what that says. That's correct.	
03:21:25 13	THE WITNESS: Without invading the privilege on		03:24:29 13	Q. And that very day you had spoken with Augustine	
03:21:29 14	any date before there would have been a privilege if a		03:24:36 14	Tsibu-Gyan and Raza Latif; isn't that right?	
03:21:32 15	privilege -- if a relationship was established, I did		03:24:43 15	A. That is correct.	
03:21:35 16	not. Or at least not to my knowledge.		03:24:49 16	Q. I'd like you to look back, please, at	
03:21:52 17	BY MR. LOCKERBY:		03:25:00 17	Exhibit 34.	
03:21:53 18	Q. On this same privilege log there are two		03:25:05 18	A. Okay. Lest I put these away, will we be	
03:21:56 19	e-mails with Raza Latif dated June 27, 2017. And this		03:25:24 19	returning to the privilege log?	
03:22:14 20	communication with Raza Latif was the result of prior		03:25:26 20	Q. We will be, yes.	
03:22:17 21	e-mails that you sent this individual identifying		03:25:28 21	MR. BRIDGES: Okay.	
03:22:21 22	yourself as a law professor doing research; is that		03:25:29 22	BY MR. LOCKERBY:	
03:22:21 23	right?		03:25:29 23	Q. We'll never escape the privilege log.	
03:22:28 24	A. Correct.		03:25:45 24	Exhibit 34. If you could look, please, at	
03:22:28 25	Q. Do you contend that you entered into an		03:25:49 25	Pages 16 through 17, which are a June 29, 2017, e-mail	
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03:22:32 1	attorney-client relationship with Raza Latif?		03:25:59 1	exchange between you and Cameron Bell.	
03:22:35 2	A. The same answer. I -- I don't know whether a		03:26:03 2	A. Okay.	
03:22:39 3	relationship has been entered into or not.		03:26:12 3	MR. BRIDGES: What's the date of the exchange	
03:22:40 4	MR. BRIDGES: I'd also note for the record that		03:26:14 4	that you're referring to?	
03:22:42 5	an attorney-client relationship is not necessary to the		03:26:15 5	MR. LOCKERBY: June 29, 2017.	
03:22:46 6	invocation of the attorney-client privilege.		03:26:17 6	MR. BRIDGES: Okay.	
03:22:49 7	BY MR. LOCKERBY:		03:26:34 7	BY MR. LOCKERBY:	
03:22:50 8	Q. Was Raza Latif seeking legal advice from you?		03:26:35 8	Q. And you see on -- down below there's the	
03:22:54 9	A. Don't believe I can answer that question		03:26:41 9	June 27, 2017, e-mail from you to Cameron Bell that we	
03:22:56 10	without invading the privilege. At -- at -- well, no.		03:26:47 10	looked at earlier. And then above that, on June 29,	
03:23:06 11	That I -- I believe I can answer.		03:26:57 11	2017, 4:40 p.m., she writes -- after the first sentence,	
03:23:08 12	At some point, yes.		03:27:03 12	she writes, "Interesting. Do they want to sue? A	
03:23:09 13	Q. Did you provide legal advice to Raza Latif?		03:27:08 13	certain lawyer who has a different defamation/challenge	
03:23:14 14	A. That, I believe I cannot answer without --		03:27:14 14	case said we should co-counsel again before I leave for	
03:23:17 15	MR. BRIDGES: Yes. You should not respond to		03:27:17 15	DOJ. Of course, this could ruin my life goal of never	
03:23:19 16	that question.		03:27:21 16	being in a state court; and Allison specifically said	
03:23:20 17	Objection. Attorney-client privilege.		03:27:24 17	she never wanted to work opposing PILF people again	
03:23:21 18	BY MR. LOCKERBY:		03:27:27 18	(understandably), so there's that."	
03:23:21 19	Q. And, in fact, you shared with Allison Riggs		03:27:32 19	And then right above that you've responded, on	
03:23:28 20	what Raza Latif and Augustine Tsibu-Gyan told you that		03:27:37 20	June 29, 2017, 11:52 p.m., "Already talked to Allison	
03:23:38 21	same day, June 27, 2017; isn't that right?		03:27:43 21	about it."	
03:23:42 22	A. That is not a question I can answer without		03:27:45 22	What did you talk to Allison Riggs at that	
03:23:44 23	waiving two privileges to which I am not entitled to		03:27:48 23	point that you were telling Cameron Bell about?	
03:23:49 24	waive.		03:27:51 24	A. I cannot answer that question without waiving a	
03:23:49 25	Q. Well, if you could look, please, at Exhibit 5,		03:27:55 25	privilege that's not mine to waive.	

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03:27:57 1	Q. Did you ever have any oral conversations with		03:32:20 1	and created one,' said Justin Levitt, a professor at	
03:28:00 2	Cameron Bell --		03:32:25 2	Loyola University School of Law and former Department of	
03:28:02 3	A. Yes.		03:32:29 3	Justice civil rights official. 'This is asking to	
03:28:03 4	Q. -- around this time?		03:32:31 4	create a national voter file in two weeks.'"	
03:28:04 5	A. I don't -- I don't recall. I don't know.		03:32:40 5	Were you correctly quoted in this article?	
03:28:14 6	Q. And when Cameron Bell said, "A certain lawyer		03:32:43 6	A. My affiliation is not quite accurate, but	
03:28:17 7	who has a different defamation/challenge case said we		03:32:46 7	this -- I can't recall exactly what I said, but this	
03:28:23 8	should co-counsel again before I leave for DOJ," who was		03:32:49 8	sounds like an accurate quote.	
03:28:26 9	the certain lawyer to whom you understood her to be		03:32:51 9	Q. Did you object to the creation of a national	
03:28:28 10	referring?		03:33:01 10	voter file or simply the speed with which this	
03:28:29 11	A. I understood her to be referring to Allison		03:33:04 11	presidential commission was seeking to do it?	
03:28:37 12	Riggs.		03:33:07 12	MR. BRIDGES: Objection.	
03:28:37 13	Q. And then Cameron Bell goes on to write, "And		03:33:08 13	Are you asking if that's what he said, or are	
03:28:40 14	Allison specifically said she never wanted to work		03:33:10 14	you asking him now?	
03:28:44 15	opposing PILF people again (understandably), so there's		03:33:11 15	MR. LOCKERBY: I'm asking him a different	
03:28:49 16	that."		03:33:13 16	question. What he said speaks for itself.	
03:28:52 17	Did you understand what Cameron Bell was		03:33:17 17	MR. BRIDGES: You said, "Did"; so I understood	
03:28:56 18	referring to there about Allison Riggs not wanting to		03:33:20 18	you to be talking in the past tense.	
03:28:59 19	work opposing PILF people again?		03:33:23 19	BY MR. LOCKERBY:	
03:29:01 20	A. I -- I understood her to be saying exactly		03:33:23 20	Q. At the time did you object to the creation of a	
03:29:04 21	that.		03:33:28 21	national voter file or the speed with which the	
03:29:07 22	Q. Did you have any independent understanding as		03:33:31 22	presidential commission would be setting it up?	
03:29:10 23	to why Ms. Riggs didn't want to work opposing PILF		03:33:33 23	A. I have had -- still have -- reservations about	
03:29:14 24	people?		03:33:40 24	creating a national voter file. I don't know that those	
03:29:14 25	A. No.		03:33:44 25	reservations couldn't be overcome in the right	
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03:29:15 1	Q. No?		03:33:47 1	circumstances. I objected to the speed, the context,	
03:30:37 2	MR. BRIDGES: Usually, when the last box comes		03:33:54 2	the lack of security protocols, and other aspects of	
03:30:40 3	off a chair, it's a good thing.		03:34:00 3	creating this file at that time, yes.	
03:30:42 4	MR. LOCKERBY: It's not. It means nothing.		03:34:04 4	Q. It's now been almost two years, so at this	
03:30:45 5	We're going back and forth.		03:34:09 5	point would it -- would you still object to creating a	
03:30:47 6	And what's the next exhibit number?		03:34:13 6	national voter file? And if so, why?	
03:30:50 7	DEPOSITION OFFICER: Thirty-six.		03:34:17 7	A. I -- I don't actually see what the two-year	
03:30:50 8	MR. LOCKERBY: I'd like to have this marked as		03:34:24 8	window between then and now is. I would want there to	
03:30:52 9	Exhibit 36, please.		03:34:27 9	be a lot of thought put in once the decision was made to	
03:30:52 10	(Whereupon the document referred to is marked		03:34:30 10	go ahead with respect to how, before it was implemented.	
03:30:52 11	by the reporter as Defense Exhibit 36 for		03:34:34 11	So starting ten years from now and taking two weeks to	
03:31:07 12	identification.)		03:34:39 12	do it, I would have exactly the same reservations.	
03:31:07 13	THE WITNESS: Thank you.		03:34:46 13	I'll give the same answer. I have some	
03:31:16 14	BY MR. LOCKERBY:		03:34:49 14	reservations about creating a national voter file. I	
03:31:16 15	Q. Exhibit 36 is a June 29, 2017, ProPublica		03:34:51 15	don't know that those reservations couldn't be overcome	
03:31:23 16	article, "Presidential Commission Demands Massive		03:34:54 16	with the right care and in the right circumstances.	
03:31:27 17	Amounts of State Voter Data."		03:34:57 17	I -- I don't have a public position on whether I think a	
03:31:28 18	Have you seen this before?		03:35:00 18	national voter file in the abstract is a good idea or a	
03:31:29 19	A. Yes.		03:35:04 19	bad idea.	
03:31:30 20	Q. And, in fact, you're quoted in here; right?		03:35:12 20	For that matter, I don't have a private	
03:31:32 21	A. I believe that I am.		03:35:14 21	position whether a national voter file in the abstract	
03:31:33 22	Q. I'd like you to look, please, at the second		03:35:18 22	is a good idea or a bad idea.	
03:32:08 23	page, where you're quoted as saying, "'You'd think there		03:35:20 23	Q. You saved yourself one question.	
03:32:13 24	would want to be a lot of thought behind security and		03:35:24 24	If a decision had been made back in June of	
03:32:16 25	access protocols for a national voter file before you up		03:35:32 25	2017 to establish a national voter file and if the	

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03:35:38 1	federal government followed through on that, how long do you think that process should take?		03:39:10 1	know whether I had concerns about them at this point. I	
03:35:42 2			03:39:14 2	had concerns that the commission was not set up in a way	
03:35:49 3	A. There is an awful lot baked into "should." And		03:39:16 3	that was bipartisan or consistent with the Federal	
03:35:52 4	if it were pulled together in an inapposite context or		03:39:22 4	Advisory Committee Act.	
03:36:00 5	without the right security procedures, then my answer is		03:39:24 5	And so independent of the particular personnel,	
03:36:02 6	it should not happen.		03:39:30 6	I did not think the composition of the commission led to	
03:36:06 7	I don't have an opinion on if you could		03:39:34 7	its producing a trustable report. I don't recall if	
03:36:08 8	overcome my reservations to the creation of one, how		03:39:42 8	there were others on the commission who -- I don't	
03:36:13 9	long it would take to construct that adequately. That		03:39:46 9	recall the timeline of who was appointed to the	
03:36:23 10	would depend on a lot of other contextual factors that		03:39:48 10	commission when, and so I don't recall if there were	
03:36:27 11	just require me to speculate.		03:39:51 11	others on the commission that would have given me pause	
03:36:28 12	Q. What are your reservations about creating a		03:39:53 12	at this point.	
03:36:33 13	national voter file?		03:39:53 13	Q. At some point Christian Adams was appointed to	
03:36:34 14	A. I would have reservations about the security of		03:39:57 14	the commission?	
03:36:38 15	the file. I would have reservations about related the		03:39:58 15	A. Correct.	
03:36:43 16	ease of tampering with the voter file. I'd have		03:39:58 16	Q. And that concerns you, did it not?	
03:36:52 17	reservations about the extent to which those security		03:40:00 17	A. In this context, it did.	
03:36:56 18	concerns actually facilitated local changes in the		03:40:02 18	Q. And at some point Hans von Spakovsky was	
03:37:00 19	national voter file; that is, if there were one national		03:40:06 19	appointed to the position; and that concerns you too,	
03:37:11 20	voter file, I don't know how often it would be updated		03:40:08 20	didn't it?	
03:37:13 21	or renewed and whether having a national voter file with		03:40:09 21	A. In this context, it did.	
03:37:17 22	all of the security concerns that would entail would		03:40:10 22	Q. And at some point Kenneth Blackwell was	
03:37:21 23	limit local updates.		03:40:13 23	appointed to the commission; is that right?	
03:37:29 24	Q. When you referenced an inapposite --		03:40:15 24	A. Yes.	
03:37:29 25	A. I don't --		03:40:15 25	Q. And that concerned you too?	
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03:37:32 1	Q. I'm sorry. I didn't mean to cut you off.		03:40:18 1	A. Differently. And I don't know whether I would	
03:37:34 2	A. I'm happy to go on to the next question.		03:40:27 2	be concerned by Secretary Blackwell in the abstract.	
03:37:36 3	I -- I don't know that I've exhausted my		03:40:32 3	Q. What concerns did you have about Secretary	
03:37:37 4	concerns with one of -- the policy question I've not		03:40:35 4	Blackwell being on the commission?	
03:37:41 5	thought a lot about.		03:40:38 5	MR. BRIDGES: Objection. Misstates his	
03:37:42 6	Q. When you referenced an inapposite context for		03:40:40 6	testimony.	
03:37:49 7	creating a national voter file, what did you mean by		03:40:41 7	You may answer.	
03:37:53 8	"an inapposite context"?		03:40:42 8	THE WITNESS: Yeah. I don't -- to be clear, I	
03:37:56 9	A. I did not have great confidence that a file		03:40:45 9	don't know that my concerns -- I don't know that I would	
03:38:00 10	constructed by this incarnation of the Presidential		03:40:49 10	have been concerned about him on the commission in the	
03:38:04 11	Advisory Commission would be using the voter file to		03:40:53 11	abstract. In conjunction with the other appointments to	
03:38:09 12	acquire, analyze, or release data that was accurate.		03:40:56 12	the commission and in the context of the procedures the	
03:38:16 13	Q. So was your concern about the people who were		03:41:02 13	commission was undertaking and the nature of its	
03:38:19 14	on the commission?		03:41:06 14	appointment, I had concern that he would be promoting	
03:38:20 15	A. And the procedures that the -- people who were		03:41:17 15	some policies with which I disagreed.	
03:38:24 16	on the commission, some of the mission statements of the		03:41:22 16	BY MR. LOCKERBY:	
03:38:32 17	commission, and the procedures that the commission had		03:41:23 17	Q. What policies were you concerned that Kenneth	
03:38:34 18	used to go forward to date.		03:41:27 18	Blackwell might promote with which you would disagree?	
03:38:36 19	Q. And specifically whom were you concerned about		03:41:30 19	A. I don't know that I had -- I don't know that	
03:38:40 20	who was on the commission?		03:41:35 20	there were specific instances that I was particularly	
03:38:42 21	A. I don't recall all of the commissioners. I had		03:41:38 21	afraid of. I know that he had taken positions in the	
03:38:46 22	concerns about the -- the reliability and accuracy of		03:41:44 22	past -- pardon me -- some I agreed with, but some that I	
03:38:52 23	analysis by the chair -- the co-chair, Mr. Kobach. I		03:41:48 23	emphatically did not agree with.	
03:39:00 24	don't recall at this point whether Mr. von Spakovsky or		03:41:50 24	There was one instance in which he later	
03:39:07 25	Mr. Adams were on the commission. So I honestly don't		03:41:54 25	reversed course but determined to reject voter	

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03:41:57 1	registration forms submitted on a certain paper weight	03:45:36 1	Q. And are there statutes that authorize	03:45:41 2	maintaining records of individuals' voting history?	03:45:46 3	A. The Privacy Act authorizes federal government
03:42:00 2	that I thought had the risk of disenfranchising voters	03:45:50 4	maintaining voting records of individuals' voting	03:45:53 5	history, again, under certain circumstances, yes.	03:46:05 6	Q. There is also a reference in this article to
03:42:04 3	who had submitted those registration forms. That, to	03:46:10 7	the Paperwork Reduction Act. Is that a statute that you	03:46:14 8	discussed with the reporter who drafted this article?	03:46:17 9	A. I believe so, yes. I will point out the
03:42:12 4	me, indicated an orientation toward administration that	03:46:39 10	article seems to be -- the printout seems to be missing	03:46:43 11	some content.	03:46:44 12	MR. LOCKERBY: It does seem to be. You're
03:42:16 5	was not always concerned with the rights of eligible	03:46:46 13	right. Thank you.	03:46:58 14	I'd like to have this marked as Exhibit 38,	03:47:49 15	please.
03:42:19 6	voters. And again, in this particular context, I	03:47:49 16	(Whereupon the document referred to is marked	03:47:49 17	by the reporter as Defense Exhibit 38 for	03:48:05 18	identification.)
03:42:24 7	thought the commission might give more voice to those	03:48:05 19	THE WITNESS: Thank you.	03:48:11 20	BY MR. LOCKERBY:	03:48:11 21	Q. Exhibit 38 is a document -- multipage document
03:42:30 8	inclinations.	03:48:15 22	produced by you. Again, since it was a single PDF,	03:48:19 23	we've identified it with one number, 33. And I'd like	03:48:25 24	you to look, please, at Page 24 of the PDF. It includes
03:42:39 9	MR. LOCKERBY: I'd like to have this marked as	03:48:34 25	some Tweets by you on July 10, 2017.	03:48:46 1	MR. LEBOWITZ: I'm sorry.	03:48:47 2	THE WITNESS: Okay.
03:42:41 10	Exhibit 37, please.	03:48:47 3	MR. LEBOWITZ: Which page did you say?	03:48:50 4	MR. LOCKERBY: Well, the pages are not	03:48:51 5	numbered.
03:42:41 11	(Whereupon the document referred to is marked	03:48:52 6	MR. LEBOWITZ: I know, but --	03:48:53 7	MR. LOCKERBY: It should be the 24th page.	03:48:56 8	MR. LEBOWITZ: Twenty-fourth.
03:42:41 12	by the reporter as Defense Exhibit 37 for	03:49:39 9	BY MR. LOCKERBY:	03:49:39 10	Q. Have you found it?	03:49:40 11	A. I did. I think so.
03:42:59 13	identification.)	03:49:40 12	Q. And you see there is a Tweet by you -- well,	03:49:40 13	first of all, right above that, it says, "Breaking:	03:49:59 14	Trump names two new people, J. Christian Adams of
03:42:59 14	THE WITNESS: Thank you.	03:49:59 15	Virginia and Alan Lamar King of Alabama, to the Election	03:50:11 15	Integrity Commission."	03:50:15 16	Do you see that?
03:43:05 15	BY MR. LOCKERBY:	03:50:17 17	A. I do.	03:50:17 18	Q. And below that you've written, JCA is prez/GC	03:50:18 19	of organization publishing claims (knowing they're
03:43:06 16	Q. Exhibit 37 is an article dated July 6, 2017,	03:50:21 20	unreliable) that individuals (with names, home address,	03:50:24 21	What was the factual basis for your statement	03:50:25 22	phone) committed felonies.
03:43:16 17	from Vice News.	03:50:27 22	that Mr. Adams had published claims knowing that they	03:50:31 23	that were unreliable?	03:50:35 24	were unreliable?
03:43:17 18	Are you familiar with that publication?	03:50:40 25					
03:43:18 19	A. I am.						
03:43:20 20	Q. And the headline is "Trump's Voter Fraud Task						
03:43:25 21	Force May Have Broken 2 Federal Laws."						
03:43:29 22	And you see that you're quoted in here?						
03:43:31 23	A. I am. That -- it was not a question. I am,						
03:43:36 24	period.						
03:43:50 25	Q. And on the second page you're quoted as -- or						
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03:43:56 1	paraphrased, at least, as explaining that the Federal	03:48:46 1	MR. LEBOWITZ: I'm sorry.	03:48:47 2	THE WITNESS: Okay.	03:48:47 3	MR. LEBOWITZ: Which page did you say?
03:44:01 2	Privacy Act prohibits the federal government from	03:48:50 4	MR. LOCKERBY: Well, the pages are not	03:48:51 5	numbered.	03:48:52 6	MR. LEBOWITZ: I know, but --
03:44:03 3	collecting records of individuals' party affiliation or	03:48:53 7	MR. LOCKERBY: It should be the 24th page.	03:48:56 8	MR. LEBOWITZ: Twenty-fourth.	03:48:56 9	BY MR. LOCKERBY:
03:44:07 4	voting history.	03:49:39 10	Q. Have you found it?	03:49:40 11	A. I did. I think so.	03:49:40 12	Q. And you see there is a Tweet by you -- well,
03:44:11 5	Is that a statement you had made to the author	03:49:40 13	first of all, right above that, it says, "Breaking:	03:49:40 14	Trump names two new people, J. Christian Adams of	03:49:40 15	Virginia and Alan Lamar King of Alabama, to the Election
03:44:13 6	of this article?	03:49:40 16	Integrity Commission."	03:50:11 17	Do you see that?	03:50:17 18	Do you see that?
03:44:14 7	A. That's a summary. I think it is an -- the	03:50:17 19	A. I do.	03:50:18 20	Q. And below that you've written, JCA is prez/GC	03:50:21 21	of organization publishing claims (knowing they're
03:44:30 8	quote actually accurately reflects what the Privacy Act	03:50:21 22	unreliable) that individuals (with names, home address,	03:50:24 23	What was the factual basis for your statement	03:50:25 24	phone) committed felonies.
03:44:33 9	states -- the quote on the next sentence. And so I	03:50:27 25	that were unreliable?				
03:44:36 10	don't think that the Privacy Act prohibits the federal						
03:44:41 11	government from collecting such records. I think that						
03:44:43 12	it prohibits them from maintaining a record describing						
03:44:48 13	how an individual exercises rights guaranteed by the						
03:44:51 14	First Amendment unless expressly authorized by statute						
03:44:54 15	or by the individual about whom the record is maintained						
03:44:57 16	or unless pertinent to and within the scope of an						
03:44:59 17	authorized law enforcement activity.						
03:45:01 18	So the first sentence is, as is common in news						
03:45:05 19	reports, a summary that does not contain all of the						
03:45:10 20	caveats in the actual law.						
03:45:13 21	Q. Are the -- are there statutes that authorize						
03:45:17 22	maintaining records of individuals' party affiliation?						
03:45:24 23	A. The Privacy Act allows the federal government						
03:45:29 24	to maintain records of individuals' party affiliation in						
03:45:35 25	certain circumstances.						

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03:50:41	1	A. A -- at least one -- I honestly can't remember	03:54:32	1	Q. Was the e-mail from Mr. Hasen at 5:48 p.m. in
03:50:49	2	whether there was more than one. There may have been	03:55:04	2	response to Tweets that you had sent previously about
03:50:51	3	more than one -- document attached to the Alien Invasion	03:55:08	3	having spoken with people identified in the Alien
03:50:56	4	report. I believe -- if there were two, they were both	03:55:12	4	Invasion reports?
03:51:04	5	from local registrars. I believe at least one was from	03:55:12	5	A. I believe so.
03:51:07	6	the local registrar -- indicated that the information	03:55:14	6	Q. And when he said, "I'd love an ELB post," did
03:51:13	7	that Mr. Adams had received did not say what he	03:55:19	7	you understand him to be referring to Election Law Blog
03:51:17	8	apparently thought that it said, pointing out from the	03:55:24	8	post?
03:51:27	9	record holder -- from the official holder of the records	03:55:24	9	A. I did.
03:51:31	10	that the records might not have, in fact, identified	03:55:24	10	Q. And up above, at 5:57 p.m., you've written, "I
03:51:36	11	noncitizens. And the fact that these letters or e-mails	03:55:40	11	can't give any individual information just yet on the
03:51:44	12	were attached to the report meant that the organization,	03:55:43	12	individuals I've heard from, which is why I haven't
03:51:48	13	the PILF that had produced the report, had seen and read	03:55:46	13	posted on it before."
03:51:52	14	the letters.	03:55:50	14	What was it that prompted you to mention it on
03:51:54	15	Q. And what you just stated was your	03:55:55	15	July 10, 2017?
03:51:58	16	characterization of what a local registrar said; right?	03:55:58	16	A. I believe it was Mr. Adams' appointment to a
03:52:00	17	A. That's correct.	03:56:02	17	prominent national commission to investigate, among
03:52:01	18	Q. And whatever the registrar said is reflective	03:56:06	18	other things, the extent of voter fraud.
03:52:03	19	in what the registrar said?	03:56:10	19	Q. And then later that evening you agreed that you
03:52:05	20	A. Also correct.	03:56:15	20	would post something about the fact that you had spoken
03:52:07	21	Q. And you were not referring to the e-mail from	03:56:18	21	with individuals identified in the Alien Invasion
03:52:12	22	the Virginia Commissioner of Elections that we've looked	03:56:23	22	report; isn't that right?
03:52:15	23	at earlier in this deposition; correct?	03:56:38	23	A. Yes.
03:52:17	24	A. Correct.	03:56:40	24	Q. And that would include the July 10, 2017,
03:52:17	25	Q. Down below there is another Tweet by you that	03:56:45	25	e-mail at 6:13 p.m. from you to Mr. Hasen?
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03:52:35	1	says, "I've spoken to several of the people named.	03:56:50	1	A. That suggests that I'm -- I'm going to hope to
03:52:39	2	They're citizens and really upset."	03:56:54	2	type up a blog later. I -- I have lots of aspirations,
03:52:42	3	Were those the people identified in Exhibits 32	03:57:00	3	so that's why I was turning the pages to see whether I
03:52:46	4	and 33 previously?	03:57:02	4	had actually done so.
03:52:50	5	A. Yes.	03:57:03	5	Q. And if you turn the pages and look at the
03:52:50	6	Q. Are these Tweets by you -- or were they at the	03:57:06	6	10:42 p.m. e-mail from you to Mr. Hasen, you lived up to
03:53:09	7	time -- publicly accessible to anyone who wanted to look	03:57:11	7	your aspiration and sent him something that evening;
03:53:12	8	at them?	03:57:15	8	isn't that right?
03:53:13	9	A. Yes.	03:57:15	9	A. Correct.
03:53:13	10	Q. I'd like you to look, please, at -- back at	03:57:16	10	Q. And then on July 11, 2017, 7:11 a.m., the very
03:53:47	11	Exhibit 34.	03:57:38	11	next morning, you were exchanging e-mails with Mr. Hasen
03:53:48	12	A. Okay.	03:57:42	12	about the possibility of putting something like this on
03:53:48	13	Q. And, in particular, the July 10 and July 11,	03:57:47	13	Slate. Do you see that?
03:53:57	14	2017, e-mail exchanges with Rick Hasen.	03:57:48	14	A. I do.
03:54:02	15	A. Happen to have page numbers? They're	03:58:19	15	Q. And if you turn the page to Tuesday, July 11,
03:54:06	16	consecutive, aren't they?	03:58:25	16	2017, 9:45 a.m., you're sending e-mails to Josh Levin
03:54:08	17	Q. They're not numbered, is the problem.	03:58:27	17	and Jeremy Stahl. Who are they?
03:54:10	18	A. Right.	03:58:29	18	A. They are -- at least one of them is an editor
03:54:10	19	Q. By my count -- and this was derived from the	03:58:32	19	at Slate -- or was at the time. I confess that I don't
03:54:15	20	PDF, so it was easier. It starts on Page 18.	03:58:38	20	know the -- the other one was working at Slate. I don't
03:54:18	21	A. I think I found a string. It starts with	03:58:41	21	know the title.
03:54:22	22	5:57 p.m. -- or at least the top e-mail on the page is	03:58:42	22	Q. And then if you look at the 10:27 a.m. e-mail
03:54:26	23	at 5:57 p.m. That might help identify.	03:59:15	23	that same day, Tuesday, July 11, 2017, Mr. Levin at
03:54:29	24	Q. Yes, that is it.	03:59:20	24	Slate is sending you back some proposed edits to your
03:54:31	25	A. Okay.	03:59:25	25	posting; isn't that right?

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03:59:26 1	A. Correct.		04:02:40 1	A. Correct.	
03:59:27 2	Q. And then you respond to him on Tuesday,		04:02:41 2	Q. And then --	
03:59:37 3	July 11, 2017, at 10:30 a.m.; is that right?		04:02:42 3	A. The "et cetera" is meaningful, but yes.	
03:59:42 4	A. 10:38, I believe.		04:02:44 4	Q. You think it's meaningful that part of his	
03:59:43 5	Q. 10:38 a.m., yes.		04:02:51 5	motif is unwarranted character assassination of others,	
03:59:46 6	A. Yes.		04:02:56 6	so I'd really rather let the facts speak for themselves.	
03:59:46 7	Q. And you've written back in numbered		04:03:00 7	Is that what you're talking about?	
03:59:57 8	Paragraph 1, "You're right that the paragraph on the		04:03:01 8	A. Correct.	
04:00:01 9	actual flag and cancel process is squirrelly, and that's		04:03:01 9	Q. And so you don't think it's character	
04:00:06 10	because I'm only interpreting from the letter cited in		04:03:04 10	assassination to say that Mr. Adams published these	
04:00:10 11	the piece itself."		04:03:08 11	reports knowing that there were inaccurate or incorrect?	
04:00:11 12	What did you mean by that?		04:03:16 12	A. I said that he published the reports knowing	
04:00:12 13	A. I meant that I did not want to go into great		04:03:18 13	they were unreliable.	
04:00:17 14	detail on characterizing the process by which		04:03:20 14	Q. Yeah.	
04:00:21 15	individuals are flagged for noncitizenship and then		04:03:21 15	A. And that the reports were, in fact, inaccurate	
04:00:26 16	removed from the rolls if they don't respond because I		04:03:23 16	or incorrect.	
04:00:30 17	wanted to confirm that process with the registrar. I		04:03:24 17	Q. And were you worried about claims for	
04:00:35 18	was -- I interpreted how that process worked from --		04:03:27 18	defamation when you said that publicly?	
04:00:40 19	from one of the letters mentioned as an attachment to		04:03:29 19	A. No. I believe that to be true.	
04:00:44 20	the report. And so I was less particular with details		04:03:31 20	Q. So because you believe it to be true, that	
04:00:49 21	in that particular section of the post than I might be		04:03:34 21	means it is true?	
04:00:52 22	otherwise.		04:03:35 22	MR. BRIDGES: Objection. Argumentative. And	
04:00:53 23	Q. And as of July 11, 2017, you've never -- or you		04:03:40 23	assumes facts not established. And misstates his	
04:01:00 24	hadn't confirmed with the registrar how that process		04:03:43 24	testimony.	
04:01:04 25	worked?		04:03:44 25	You may answer again, if you have a different	
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04:01:04 1	A. Correct.		04:03:47 1	answer.	
04:01:05 2	Q. And as of today, April 17, 2019, you haven't		04:03:49 2	THE WITNESS: Can I hear the question again.	
04:01:10 3	confirmed with the registrar who sent that e-mail how		04:03:50 3	(The record is read by the reporter as	
04:01:14 4	the process works?		04:03:50 4	follows:	
04:01:15 5	A. Correct.		04:03:51 5	"Q. So because you believe it to be true, that	
04:01:16 6	Q. In Paragraph 2 you write, "You're also entirely		04:03:34 6	means it is true?"	
04:01:31 7	right that the specific stories of the individual would		04:03:59 7	THE WITNESS: No.	
04:01:34 8	make the piece much more powerful. I've spoken with		04:04:01 8	BY MR. LOCKERBY:	
04:01:37 9	them; but while I've got authorization to mention their		04:04:02 9	Q. Then if you look at the July 11, 2017, e-mail,	
04:01:40 10	situations generically, I don't yet have authorization		04:04:07 10	11:54 a.m., from you to Josh Levin --	
04:01:44 11	to tell their stories; and so I can't elaborate further		04:04:15 11	A. Okay.	
04:01:49 12	just yet."		04:04:15 12	Q. -- he had written you back saying, "I'm less	
04:01:51 13	Which individuals were you referring to as of		04:04:18 13	concerned about 3. If we can get to where I want to get	
04:01:55 14	July 11, 2017?		04:04:22 14	on 1 and 2, then I'd be happy to run the piece.	
04:01:57 15	A. Several individuals who were identified in the		04:04:26 15	Thanks."	
04:02:04 16	Alien Invasion report whom I had contacted who were		04:04:26 16	You wrote back, "Got it. Okay. If 1 and 2 are	
04:02:09 17	falsely identified as noncitizens when they registered		04:04:30 17	understandably the crux of the matter, I think it's	
04:02:14 18	to vote. I don't know that I know exactly which		04:04:32 18	better to hold off for now. If I can get more clarity	
04:02:17 19	individuals but individuals with whom I had spoken who		04:04:35 19	on either end, I'll happily resubmit. Thanks again for	
04:02:20 20	were not noncitizens when they registered.		04:04:39 20	the time."	
04:02:29 21	Q. And then in the third paragraph, you wrote in		04:04:39 21	You see that?	
04:02:31 22	the opening graph, "I'm loath to characterize Adams more		04:04:40 22	A. Yes.	
04:02:35 23	generally. There is no love lost between us,"		04:04:40 23	Q. And you never were able to resolve Items 1 and	
04:02:38 24	et cetera.		04:04:50 24	2 below, were you?	
04:02:38 25	That's what you write.		04:04:51 25	A. Correct.	

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04:05:15	1	Q. And so then on July 11, 2017, at 11:56 a.m.,	04:09:09	1	Q. And the "him" to whom you were referring to was
04:05:20	2	you told Mr. Hasen that Slate, quote, doesn't want it	04:09:14	2	Christian Adams; isn't that right?
04:05:29	3	without more info than I can give them right now.	04:09:17	3	A. Correct.
04:05:32	4	Do you see that?	04:09:53	4	DEPOSITION OFFICER: Counsel, whenever you get
04:05:32	5	A. I do.	04:09:55	5	to a good point, can we get a comfort break?
04:05:49	6	Q. And then at 12:07 p.m., you responded to an	04:09:57	6	MR. LOCKERBY: Yes. Absolutely. This actually
04:05:56	7	e-mail from Mr. Hasen which he suggested posting what	04:10:01	7	would be a good time.
04:06:00	8	you had written on the Election Law Blog.	04:10:01	8	THE VIDEOGRAPHER: We're off the record at
04:06:03	9	Do you see that?	04:10:03	9	4:09 p.m.
04:06:04	10	A. I do.	04:10:03	10	(A recess is taken.)
04:06:04	11	Q. And, in fact, did you post it on the Election	04:19:58	11	THE VIDEOGRAPHER: We are back on the record at
04:06:08	12	Law Blog?	04:19:59	12	4:19 p.m.
04:06:08	13	A. I don't -- I don't recall. I don't believe so,	04:20:01	13	BY MR. LOCKERBY:
04:06:16	14	but I honestly don't recall.	04:20:08	14	Q. All right. There is an e-mail we were looking
04:06:25	15	Those posts are all publicly available.	04:20:11	15	at from you to Cameron Bell, July 12, 2017, 5:47 p.m.
04:06:28	16	Q. And then if you look at the July 11, 2017,	04:20:23	16	And you wrote, "Believe it or not, it's not just pique.
04:06:34	17	e-mail from you to Perma [sic] Levy on the subject	04:20:27	17	I'm trying to get what I can get him to say about
04:06:37	18	"J. Christian Adams Report."	04:20:31	18	knowledge and intent; but sadly, I think our Twitter war
04:06:40	19	Perma Levy was a reporter at Mother Jones at	04:20:34	19	petered out."
04:06:46	20	the time; right?	04:20:36	20	Now, the "him" to which you're referring was
04:06:46	21	A. Pema, I believe.	04:20:40	21	Christian Adams; right?
04:06:47	22	But yes.	04:20:42	22	A. Correct.
04:06:48	23	Q. Pema. You're absolutely right. Thank you.	04:20:42	23	Q. And you had exchanged a series of Tweets with
04:06:50	24	And Pema Levy is saying, I saw on Twitter that	04:20:51	24	Mr. Adams earlier that day; isn't that right?
04:07:00	25	you indicated you had spoken with some of the people	04:20:54	25	A. Correct.
		Page 174			Page 176
04:07:02	1	mentioned in the report. I've been, quote, calling a	04:20:54	1	Q. And knowledge and intent are elements of a
04:07:07	2	lot of people and haven't had much luck getting through.	04:21:02	2	defamation claim; correct?
04:07:10	3	If you feel okay letting me know which people you've	04:21:05	3	A. I understand that they are, yes.
04:07:14	4	talked to, I'd love to try to reach out to them and see	04:21:07	4	Q. Yeah. And you were trying to get Mr. Adams to
04:07:17	5	if they'd talk to me.	04:21:10	5	provide some evidence in his Tweets that might help
04:07:19	6	Did you, in fact, let Pema Levy know with which	04:21:15	6	establish the knowledge and intent elements of a
04:07:24	7	individuals you had been in contact?	04:21:18	7	defamation claim; isn't that right?
04:07:25	8	A. I don't believe so. I should say, not	04:21:21	8	A. I don't actually know that I had a legal case
04:07:34	9	specifically by name. I may have told her that I	04:21:26	9	in mind.
04:07:37	10	reached out to those whose e-mail addresses were listed	04:21:30	10	Q. What else would knowledge and intent be
04:07:40	11	in the documents attached to the report.	04:21:33	11	relevant to other than a legal case?
04:07:52	12	Q. And then that same day, according to the	04:21:36	12	A. To whether he expressed the intent that he was
04:07:59	13	privilege log that is marked as Exhibit 5, you had	04:21:45	13	publishing false information about people claiming that
04:08:04	14	communications with Allison Riggs. That's Entries No. 2	04:21:50	14	they had committed felonies and that's -- given
04:08:10	15	and 3. Is that right?	04:21:53	15	particularly his appointment to a national commission,
04:08:14	16	A. Correct. No. Sorry. That's not correct. It	04:22:00	16	national investigatory body, I thought that would be
04:08:16	17	was not the same day. My apologies.	04:22:04	17	relevant in a quite a few circumstances.
04:08:22	18	Q. It was the following day, July 12, 2017?	04:22:07	18	Q. So that was for the other purposes, not
04:08:25	19	A. Correct.	04:22:12	19	potential litigation?
04:08:27	20	Q. And then if you look back at Exhibit 34, the	04:22:17	20	A. I don't know that I had the litigation in mind.
04:08:33	21	e-mail from you to Cameron Bell on July 12, 2017, at	04:22:20	21	I can't recall at the time exactly why I would have done
04:08:41	22	5:47 p.m., you write, "Believe it or not, it's not just	04:22:26	22	that. You asked whether I did that in order to
04:08:56	23	pique. I'm trying to see what I can get him to say	04:22:28	23	establish elements of a claim, and I said I don't know
04:08:58	24	about knowledge and intent."	04:22:32	24	that I had that in mind.
04:09:04	25	A. Correct.	04:22:33	25	Q. Okay. Is that something that the Southern

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04:22:39 1	Coalition for Social Justice or the Protect Democracy		04:27:22 1	Presidential Advisory Commission on Electoral Integrity;	
04:22:40 2	Project suggested that you do?		04:27:26 2	isn't that right?	
04:22:42 3	A. I don't think I can answer that question one		04:27:32 3	MR. LEBOWITZ: Objection. Vague.	
04:22:47 4	way or another without invading someone else's work		04:27:33 4	THE WITNESS: I believe they -- they do reflect	
04:22:50 5	product that I'm not at liberty to waive.		04:27:35 5	poorly on Mr. Adams. And also, to the extent that	
04:22:53 6	Q. On the page before that one, there is an e-mail		04:27:42 6	Mr. Adams' methodology was a methodology considered by	
04:22:57 7	from you, Wednesday, July 12, 2017, at 12:18 a.m., on		04:27:48 7	the commission, that it would further reflect poorly on	
04:23:04 8	the subject "J. Christian Adams."		04:27:50 8	the commission, yes.	
04:23:08 9	Who was Tova?		04:27:52 9	BY MR. LOCKERBY:	
04:23:10 10	A. Tova is Tova Wang. She's another colleague		04:27:53 10	Q. And if you turn a few more pages, there's an	
04:23:19 11	involved in election administration and voting. She --		04:27:56 11	e-mail exchange July 14, 2017, at 9:17 a.m. with Vanita	
04:23:24 12	I believe she works for The Century Foundation, but I'm		04:28:05 12	Gupta with an attachment, "On the Eve Of The Purges,	
04:23:27 13	not sure where she worked on July of 2017.		04:28:10 13	docx."	
04:24:15 14	Q. As part of the July 12, 2017, 5:47 p.m. e-mail		04:28:11 14	Do you see that?	
04:24:23 15	exchange with Cameron Bell, earlier there is a July 10,		04:28:11 15	A. I do.	
04:24:36 16	2017, 5:56 p.m. e-mail from her to you. And you see she		04:28:12 16	Q. And you had previously discussed drafting	
04:24:44 17	says, "And I told Pema to call you first. She really		04:28:21 17	something on the subject "On the Eve Of The Purges";	
04:24:48 18	wanted me to call JCA a racist, but I wouldn't."		04:28:26 18	isn't that right?	
04:24:53 19	Do you see that?		04:28:28 19	A. Correct.	
04:24:54 20	A. I do.		04:28:28 20	Q. And what was the purpose of that, as you	
04:24:55 21	Q. Did Pema ever say anything that suggested to		04:28:30 21	understood it?	
04:25:09 22	you that she wanted you to call Mr. Adams a racist?		04:28:32 22	A. It was -- as I understood it, Ms. Gupta wanted	
04:25:13 23	A. She did not. Not that I recall, in any event.		04:28:36 23	to discuss and describe what she perceived as some of	
04:25:33 24	Q. And then if you turn a few pages -- and there		04:28:43 24	the dangers of the commission and/or their aftermath for	
04:25:40 25	are some e-mails beginning with one Thursday, July 13,		04:28:49 25	publication in an op-ed.	
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04:25:45 1	2017, 9:28 a.m. to John Donnelly at DPCC.		04:28:56 1	Q. And you were doing a first draft for her; is	
04:25:53 2	Who is Mr. Donnelly?		04:28:56 2	that right?	
04:25:55 3	A. He, as best I know, is involved with the Senate		04:29:00 3	A. Correct.	
04:26:01 4	Democratic Policy and Communications Committee. I don't		04:29:00 4	Q. And when you said, "It's over the top," what	
04:26:04 5	know what position he holds there.		04:29:04 5	did you mean by that?	
04:26:08 6	Q. And the event that he had written to you about		04:29:05 6	A. I meant that I was attempting to capture a	
04:26:19 7	was an event to draw attention to the President's		04:29:14 7	particularly vigorous tone. Not a tone that I	
04:26:24 8	Election Integrity Commission and voting rights issues.		04:29:18 8	personally would have used, but one that I thought she	
04:26:27 9	Do you see that?		04:29:23 9	might welcome.	
04:26:27 10	A. That's -- yes. I see that stated here.		04:29:24 10	Q. And then if you look further, do you see you	
04:26:31 11	Q. And in response, one of the items you sent him,		04:29:43 11	had some additional e-mail exchanges with Ms. Gupta on	
04:26:34 12	the top of the page, was the article about Ms. Erickson,		04:29:50 12	July 18, 2017?	
04:26:41 13	the alleged noncitizen Guatemala --		04:29:59 13	A. Sounds right.	
04:26:44 14	A. Correct.		04:30:00 14	Q. And ultimately, this "On the Eve Of The Purges"	
04:26:44 15	Q. -- is that right?		04:30:09 15	document was published in The New York Times; is that	
04:26:45 16	A. Correct.		04:30:11 16	right?	
04:26:45 17	Q. So did you think that was responsive to what he		04:30:12 17	A. Correct. I should say, I don't recall what the	
04:26:50 18	was asking you about?		04:30:27 18	title of the ultimate document published was; but the	
04:26:51 19	A. I did.		04:30:31 19	op-ed reflected here was ultimately published.	
04:26:52 20	Q. And then on the next page, you also sent		04:31:14 20	MR. LOCKERBY: I'd like to have this marked as	
04:26:58 21	Mr. Donnelly, what you said were e-mails from Virginia		04:31:15 21	exhibit -- what are we up to now?	
04:27:03 22	registrars about Christian Adams' noncitizen report?		04:31:20 22	DEPOSITION OFFICER: Thirty-nine.	
04:27:06 23	A. Correct.		04:31:21 23	MR. LOCKERBY: -- 39, please.	
04:27:07 24	Q. And you believe that these e-mails would		04:31:21 24	///	
04:27:18 25	reflect poorly not just on Mr. Adams, but on the		04:31:21 25	///	

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04:31:21 1	(Whereupon the document referred to is marked	04:34:57 1	falsely accused of feloniously registering while				
04:31:21 2	by the reporter as Defense Exhibit 39 for	04:35:01 2	noncitizens.				
04:31:22 3	identification.)	04:35:02 3	Q. So one of the acts of vigilante frenzy was the				
04:31:22 4	MR. BRIDGES: Are we done with 34?	04:35:09 4	publication of information about individuals; is that				
04:31:26 5	MR. LOCKERBY: We'll be going back to it.	04:35:09 5	right?				
04:31:28 6	Because it has so many dates in the one PDF, it's one of	04:35:13 6	A. Yes.				
04:31:33 7	those that I don't think we'll ever get away from.	04:35:13 7	Q. And --				
04:31:50 8	BY MR. LOCKERBY:	04:35:14 8	A. The publication of individuals falsely accused				
04:31:51 9	Q. Was Exhibit 39 the draft "On the Eve of the	04:35:18 9	of committing crimes.				
04:31:56 10	Purges" document that you sent to Ms. Gupta?	04:35:21 10	Q. Well, I'm trying to break this down into pieces				
04:32:01 11	A. I believe so.	04:35:25 11	so I don't, you know, prompt an objection that I'm				
04:32:03 12	Q. There is a reference in the third paragraph to	04:35:29 12	asking a compound question.				
04:32:13 13	the myth of voter fraud. What did you mean by that?	04:35:30 13	A. Sure.				
04:32:20 14	A. Recall that this is a draft for someone else.	04:35:30 14	Q. One act of vigilante frenzy of which you're				
04:32:27 15	So what I meant by that was the perception that voter	04:35:37 15	accusing Mr. Adams was the publication of information				
04:32:34 16	fraud is rampant or widespread or affecting national	04:35:44 16	contained in records that are available for public				
04:32:41 17	elections in significant degrees.	04:35:48 17	inspection under the NVRA; is that right?				
04:32:43 18	Q. And how does making sure that only living	04:35:50 18	MR. LEBOWITZ: Objection. Mischaracterizes				
04:32:51 19	citizens of the United States vote once suppress the	04:35:52 19	testimony.				
04:32:56 20	vote of those who are entitled to vote?	04:35:54 20	MR. BRIDGES: Misstates the testimony. And				
04:33:00 21	A. I --	04:35:56 21	misstatement in the exhibit.				
04:33:06 22	MR. LEBOWITZ: Objection. Form.	04:35:59 22	THE WITNESS: Does all of those things. And				
04:33:07 23	Argumentative.	04:36:01 23	remember, this is also written in someone else's voice;				
04:33:08 24	THE WITNESS: Yeah. But one doesn't	04:36:05 24	so to the extent you say I am accusing, I don't know				
04:33:10 25	necessarily entail the other, but there are certainly	04:36:12 25	that I would agree with that. But that's part of why I				
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04:33:14 1	efforts that could involve one that would also entail	04:36:23 1	answered your previous question in full because the				
04:33:16 2	the other. And to be clear, I don't believe I ever said	04:36:25 2	context matters.				
04:33:21 3	that it did. So the "how" question assumes a premise	04:36:28 3	The simple adoption of republication of records				
04:33:26 4	I'm not sure I agree with in every circumstance.	04:36:34 4	may or may not be permissible or have a -- have a moral				
04:33:29 5	BY MR. LOCKERBY:	04:36:45 5	flavor attached to them depending on the context. And				
04:33:32 6	Q. You have a statement in here that Kobach had	04:36:50 6	I, in particular, was pointing out the publication of				
04:33:35 7	blocked an unspecified number of voters from registering	04:36:53 7	this personal information in the context of accusing				
04:33:41 8	before the 2016 election and that he'd done so	04:36:57 8	them incorrectly of having committed felonies.				
04:33:45 9	illegally.	04:37:00 9	BY MR. LOCKERBY:				
04:33:46 10	What was the basis for those allegations?	04:37:02 10	Q. Is the mere publication of records that are				
04:33:48 11	A. That referred to an attempt to unlawfully	04:37:06 11	available for public inspection under the NVRA improper,				
04:33:56 12	require proof of citizenship from individuals for whom	04:37:11 12	in your view?				
04:34:03 13	there was no other indication of ineligibility before	04:37:12 13	A. It depends on the context.				
04:34:06 14	individuals were able to register to vote in Kansas. A	04:37:15 14	Q. So it's okay for some people to publish records				
04:34:13 15	court later struck down that particular provision.	04:37:19 15	obtained pursuant to the NVRA, but not others. Is				
04:34:17 16	Q. And then you claim in this draft that	04:37:19 16	that --				
04:34:22 17	Mr. Blackwell illegally rejected registration forms	04:37:19 17	MR. BRIDGES: Objection.				
04:34:27 18	because they were printed on paper he thought was too	04:37:19 18	BY MR. LOCKERBY:				
04:34:31 19	thin?	04:37:25 19	Q. -- what you're saying?				
04:34:32 20	A. Correct.	04:37:26 20	MR. BRIDGES: Objection. Misstates testimony.				
04:34:32 21	Q. And then with respect to John Christian Adams,	04:37:27 21	Argumentative.				
04:34:40 22	you refer to a vigilante frenzy. What's the vigilante	04:37:28 22	THE WITNESS: It's not actually what I said. I				
04:34:47 23	frenzy that you're referring to there?	04:37:31 23	said it depends on the context. If I say the following				
04:34:48 24	A. The publication of personal information,	04:37:35 24	person is a child molester and then I publish that				
04:34:52 25	including sensitive personal data, about individuals	04:37:39 25	person's information, that may have a very different				

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04:37:42 1	flavor from simply publishing that person's information		04:40:40 1	Social Justice and the Protect Democracy Project,	
04:37:45 2	without other contextual information.		04:40:44 2	disagree.	
04:37:48 3	BY MR. LOCKERBY:		04:40:44 3	MR. LEBOWITZ: May I --	
04:37:49 4	Q. Is the mere publication of records available		04:40:45 4	MR. BRIDGES: Make all those arguments --	
04:37:53 5	for inspection under the NVA -- NVRA improper, in your		04:40:46 5	MR. LEBOWITZ: May I suggest that if you need	
04:37:58 6	view?		04:40:47 6	to characterize what the evidence does or does not show	
04:37:58 7	A. It depends on the context.		04:40:50 7	in your view or discuss what his testimony is relevant	
04:38:01 8	Q. Is the mere publication of records available		04:40:53 8	to or what you anticipate will show, that you do it	
04:38:17 9	for public inspection under the NVRA an act of vigilante		04:40:56 9	outside the presentation of the witness to the extent	
04:38:23 10	frenzy?		04:40:57 10	you need to do that.	
04:38:24 11	A. It depends on the context.		04:40:58 11	MR. LOCKERBY: Well, my preference would be not	
04:38:25 12	Q. What is a vigilante frenzy anyway?		04:41:00 12	to discuss it at all. I'd rather just get the	
04:38:27 13	MR. BRIDGES: Objection. Argumentative.		04:41:02 13	deposition done.	
04:38:29 14	I'm not a party to this action, but I've talked		04:41:03 14	MR. BRIDGES: And that's what I'd like to do,	
04:38:31 15	about how long it's gone on. And could you explain to		04:41:04 15	too; and my point is I think we're spending a lot of	
04:38:34 16	me how this is even marginally relevant to the issues in		04:41:07 16	time making arguments to the Court in front of the	
04:38:37 17	the lawsuit. Isn't a court going to determine whether		04:41:09 17	witness and asking him questions that are arguments to	
04:38:39 18	something's lawful or unlawful? And whether this		04:41:13 18	the Court. So please -- please keep that in mind that	
04:38:43 19	deponent or any other deponent thinks that something's		04:41:18 19	there is a relevance barometer here.	
04:38:46 20	wrong or inappropriate or a vigilante frenzy, how's it		04:41:23 20	MR. LOCKERBY: There is.	
04:38:51 21	got anything to do with the lawsuit?		04:41:27 21	I'd like to have this marked as Exhibit 40,	
04:38:53 22	MR. LOCKERBY: Well, the lawsuit's complicated;		04:41:31 22	please.	
04:38:55 23	but I can tell you that our client has an anti-SLAPP		04:41:31 23	(Whereupon the document referred to is marked	
04:38:59 24	defense and also defenses that the plaintiffs in this		04:41:31 24	by the reporter as Defense Exhibit 40 for	
04:39:05 25	case are seeking an interpretation of the Voting Rights		04:41:47 25	identification.)	
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04:39:09 1	Act and the Ku Klux Klan Act for the improper purpose of		04:41:47 1	THE WITNESS: Thank you.	
04:39:13 2	silencing the expression of views with which they dis --		04:41:48 2	BY MR. LOCKERBY:	
04:39:18 3	which not necessarily the plaintiffs, but certain groups		04:41:54 3	Q. Exhibit 40 is another version of what was	
04:39:21 4	disagree and that also have the purpose and effect of		04:41:59 4	originally titled "On the Eve Of The Purges" with a	
04:39:27 5	chilling their First Amendment rights to petition the		04:42:03 5	markup by Vanita Gupta and then your comments in the	
04:39:30 6	government. And so that's among the many issues that		04:42:08 6	margin; is that right?	
04:39:37 7	the line of questioning is relevant to.		04:42:09 7	A. Correct.	
04:39:41 8	MR. BRIDGES: Assuming all that to be true and		04:42:10 8	Q. And if you look on the second page, do you see	
04:39:43 9	without denigrating my client, what's his view have to		04:42:42 9	there is a sentence that says, "J. Christian Adams	
04:39:47 10	do with any of whether that's true, untrue, a legal		04:42:47 10	published personal information about specific people he	
04:39:50 11	defense, not a legal defense, whether a civil violation		04:42:50 11	wrongly accused of committing multiple felonies in a	
04:39:54 12	has been committed, whether a felony's been committed?		04:42:55 12	deeply flawed hunt for apparent fraud."	
04:39:57 13	He's just a law professor. What difference does it make		04:42:58 13	Do you see that?	
04:40:00 14	what he thinks about it or whether he calls it a		04:42:58 14	A. I do.	
04:40:01 15	vigilante frenzy?		04:42:59 15	Q. And the underlying words -- the phrases are	
04:40:03 16	MR. LOCKERBY: Well, your client is not just a		04:43:03 16	words that you were proposing adding; is that right?	
04:40:04 17	law professor. Your client is a law professor without		04:43:07 17	A. I believe so.	
04:40:09 18	whose involvement we wouldn't be sitting here because		04:43:08 18	Q. And then the words and phrases and sentences	
04:40:11 19	the evidence is overwhelming that he took it upon		04:43:14 19	that are stricken through, that is verbiage that you	
04:40:13 20	himself, either on his own or at the behest of others,		04:43:18 20	were proposing removing; isn't that right?	
04:40:19 21	to engage in, among other things, barratry, whether it's		04:43:20 21	A. Correct.	
04:40:23 22	illegal barratry or not, to procure plaintiffs for this		04:43:20 22	Q. And one thing that you struck in its entirety	
04:40:29 23	litigation for the purpose of trying to suppress the		04:43:25 23	was the statement, "In fact, they were all eligible	
04:40:33 24	expression of views with -- with which certain		04:43:28 24	American voters."	
04:40:36 25	organizations, including the Southern Coalition for		04:43:29 25	Do you see that?	

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04:43:29 1	A. Correct.		04:46:13 1	Q. Okay.	
04:43:30 2	Q. And that was your comment, JL10, that reads,		04:46:23 2	A. I don't know whether I can answer one way or	
04:43:38 3	"They weren't all eligible. I know some of them weren't		04:46:25 3	another.	
04:43:42 4	eligible. Indeed, some said they weren't eligible; and		04:48:17 4	MR. LOCKERBY: I'd like to have this marked as	
04:43:46 5	I don't actually know how many of them were eligible. I		04:48:19 5	Exhibit 41, please.	
04:43:50 6	just know some of them weren't eligible because I talked		04:48:19 6	(Whereupon the document referred to is marked	
04:43:55 7	to a few who were eligible."		04:48:19 7	by the reporter as Defense Exhibit 41 for	
04:43:57 8	Those were your words; right?		04:48:36 8	identification.)	
04:43:58 9	A. Correct.		04:48:36 9	THE WITNESS: Thank you.	
04:43:58 10	Q. And that was a true statement; correct?		04:48:36 10	BY MR. LOCKERBY:	
04:44:00 11	A. Yes.		04:48:55 11	Q. Exhibit 41 is a document you produced. It was	
04:44:00 12	Q. And -- and when you said, "Some said they		04:48:59 12	produced as a single PDF. We've numbered it No. 34.	
04:44:05 13	weren't eligible," which voters were you referring to		04:49:05 13	But this consists of e-mail exchanges that you had with	
04:44:07 14	there?		04:49:15 14	the Southern Coalition for Social Justice and the	
04:44:08 15	A. Voters who had marked down on the forms		04:49:18 15	Protect Democracy Project for which there's been no	
04:44:11 16	themselves, "I am not a citizen," or had otherwise		04:49:23 16	assertion of work product except with respect to the	
04:44:15 17	indicated on the forms themselves that they were not		04:49:27 17	redacted sections; is that right?	
04:44:19 18	otherwise eligible to vote.		04:49:30 18	A. Correct.	
04:44:20 19	Q. No. But this says, "Indeed, some said they		04:49:30 19	Q. And if you look, there's an e-mail on Thursday,	
04:44:24 20	weren't eligible."		04:50:02 20	April 12, 2018, from Lara Bergthold to you at 9:06 a.m.?	
04:44:24 21	A. Correct.		04:50:08 21	A. Correct.	
04:44:25 22	Q. Some of them actually told you they weren't		04:50:09 22	Q. And that was on Thursday -- Thursday, April 12,	
04:44:27 23	eligible; isn't that right?		04:50:17 23	2018, was the date on which this lawsuit was filed; is	
04:44:29 24	A. No. Not to my knowledge. I would have to		04:50:17 24	that right?	
04:44:31 25	refresh.		04:50:21 25	A. I believe that's correct.	
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04:44:32 1	Q. What would you have to do to refresh?		04:50:22 1	Q. Ms. Bergthold writes, "Hi. I hear you talked	
04:44:35 2	A. I would have to take a look at my notes about		04:50:33 2	to Larry Schwartzel and agreed to do some validating for	
04:44:38 3	the individuals with whom I spoke.		04:50:37 3	this case. Complaint and press release are below.	
04:44:41 4	Q. And would those notes include communications		04:50:39 4	Suggested Tweets below. Feel free to make them your	
04:44:45 5	with the Southern Coalition for Social Justice and the		04:50:43 5	own. And then when all this is done and assuming we	
04:44:49 6	Protect Democracy Project, potentially?		04:50:45 6	don't meet in the streets to protest Mueller's being	
04:44:51 7	A. Not anymore. I -- I'm referring to the		04:50:49 7	fired, let's grab lunch sometime soon."	
04:44:56 8	exhibits that have been redacted.		04:50:52 8	Did you understand that -- well, first of all,	
04:44:59 9	Q. But there are other communications with the		04:50:56 9	did you know Lara Bergthold before this date and time?	
04:45:04 10	Southern Coalition for Social Justice and the Protect		04:51:01 10	A. Yes.	
04:45:08 11	Democracy Project that have not only been redacted, but		04:51:01 11	Q. How did you know her?	
04:45:10 12	not produced altogether; correct?		04:51:02 12	A. We had worked together in a number of	
04:45:17 13	A. Yes. I'm only going to -- I want to add, the		04:51:06 13	capacities, including on Wesley Clark's very short	
04:45:21 14	fact that you asked "but" implies that that's related to		04:51:11 14	presidential race.	
04:45:24 15	the prior sentence; and I don't believe those two things		04:51:13 15	Q. This says she is with a organization called	
04:45:27 16	are related. There are, in fact, other communications		04:51:18 16	WeAreRALLY.com. What is that?	
04:45:30 17	with the Southern Coalition for Social Justice and		04:51:19 17	A. I believe that RALLY is a multifaceted public	
04:45:33 18	Protect Democracy Project that I have not produced. I		04:51:26 18	engagement and occasionally public relations firm.	
04:45:38 19	don't believe that is related to the question you asked		04:51:32 19	WeAreRALLY.com is their the Web address, but I believe	
04:45:41 20	before that.		04:51:37 20	the organization is called RALLY.	
04:45:48 21	Q. Did you tell the Southern Coalition for Social		04:51:41 21	Q. And was RALLY retained to help publicize the	
04:45:53 22	Justice or the Protect Democracy Project which voters		04:51:48 22	LULAC of Richmond versus PILF case?	
04:45:59 23	said they weren't eligible?		04:51:52 23	A. I don't know. That's my understanding, but I	
04:46:08 24	A. I don't know whether I can answer that question		04:51:55 24	don't know.	
04:46:11 25	without waiving a privilege that's not mine.		04:51:55 25	Q. Have you yourself ever spoken with anyone at	

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04:52:00	1	LULAC of Richmond?	04:55:45	1	Mr. Schwartzel writes, "I thought you'd want to know
04:52:02	2	A. No.	04:55:50	2	that we just beat MTD in our case against Adams."
04:52:03	3	Q. If you turn the page, you see there is a	04:55:55	3	Do you see that?
04:52:08	4	response from you to Ms. Bergthold on Thursday,	04:55:56	4	A. I do.
04:52:12	5	April 19, 2018?	04:55:56	5	Q. And there is a link to a press release on the
04:52:16	6	A. Yes.	04:56:01	6	Protect Democracy Web site. Do you see that?
04:52:17	7	Q. In the first paragraph you write, "As I think	04:56:04	7	A. I do.
04:52:28	8	you know, I'm a giant fan of the case. I helped round	04:56:04	8	Q. And then Mr. Schwartzel writes, "Needless to
04:52:34	9	up a few of the initial plaintiffs and hounded Larry and	04:56:08	9	say, we welcome amplification, comment, et cetera."
04:52:38	10	Allison enough that I half think they brought the case	04:56:12	10	What did you understand him to mean by that?
04:52:42	11	to get rid of me. I'm delighted to keep on validating	04:56:14	11	A. Similar to validation in this context. I
04:52:47	12	as long as I can. I hope they roundly kick the ass of	04:56:20	12	understood that to mean that he would welcome my posting
04:52:51	13	the folks on the other side."	04:56:24	13	on, talking about, or talking to reporters about the
04:52:53	14	First of all, which of the initial plaintiffs	04:56:32	14	development.
04:52:56	15	had you helped round up?	04:56:33	15	Q. And did you, in fact, do that?
04:52:57	16	A. Yeah. That turns out to be an inaccurate	04:56:36	16	A. I don't actually remember. I don't remember.
04:53:01	17	statement. I believe that the only plaintiff that I	04:57:27	17	MR. LOCKERBY: I'd like to have this marked as
04:53:07	18	spoke with before they signed on to the case was	04:57:29	18	Exhibit 41, please.
04:53:12	19	Ms. Freeman.	04:57:34	19	MR. BRIDGES: I think you said this one was
04:53:16	20	Q. And when you wrote that you, quote, hounded	04:57:37	20	marked 41.
04:53:19	21	Larry and Allison enough that I half think they brought	04:57:38	21	DEPOSITION OFFICER: Yes.
04:53:23	22	the case to get rid of me, the Larry was Larry	04:57:38	22	MR. LOCKERBY: I did? Okay. I'm sorry. This
04:53:27	23	Schwartzol --	04:57:40	23	would obviously be 42.
04:53:27	24	A. It was.	04:57:57	24	Did I give one of you two cop -- I gave you two
04:53:28	25	Q. -- of Protect Democracy Project?	04:58:00	25	copies.
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04:53:29	1	A. Correct.	04:58:00	1	(Whereupon the document referred to is marked
04:53:29	2	Q. And Allison was Allison Riggs of the Southern	04:58:00	2	by the reporter as Defense Exhibit 42 for
04:53:35	3	Coalition for Social Justice?	04:58:03	3	identification.)
04:53:35	4	A. Correct.	04:58:03	4	THE WITNESS: Thank you.
04:53:36	5	Q. And what did you mean when you said that you	04:58:17	5	BY MR. LOCKERBY:
04:53:41	6	"hounded them enough that I half think they brought the	04:58:18	6	Q. Exhibit 42 is a PJ Media article by Mr. Adams
04:53:45	7	case to get rid of me"?	04:58:23	7	dated July 20, 2017, entitled "President Trump's Voter
04:53:46	8	A. That's an -- a very -- a misinformed or	04:58:33	8	Fraud Commission Meets, Smeared By Deniers."
04:53:52	9	misfired attempt to be funny. It conveys the fact that	04:58:37	9	Do you see that?
04:53:59	10	we spoke quite a bit. But I actually would not stand	04:58:38	10	A. I do.
04:54:03	11	behind that characterization as a truthful one.	04:58:38	11	Q. Have you seen this article before?
04:54:07	12	Q. And when you referred to "validated," what did	04:58:40	12	A. I don't believe I have. It's possible, but I'm
04:54:12	13	you mean?	04:58:44	13	not sure.
04:54:12	14	A. In -- in my experience, validating generally	04:58:44	14	Q. And on the second page do you see there is a
04:54:18	15	means talking about the merits of the case when	04:58:48	15	reproduction that says it's a Brennan Center graphic?
04:54:23	16	reporters ask. And so that's what I meant by that. I	04:58:54	16	A. I -- I see that that's there, yes.
04:54:35	17	should say validating in this context means talking	04:58:57	17	Q. And do you see it refers to President Trump's
04:54:38	18	about the merits of the case when a reporter asks.	04:59:02	18	four horsemen and voter suppression?
04:54:41	19	That's not been obviously what it means all the time.	04:59:04	19	A. I see that's what it says.
04:54:45	20	Q. And then when you said, "I hope they roundly	04:59:06	20	Q. And it has pictures of Mr. Adams, Ken
04:54:52	21	kick the ass of the folks on the other side," were you	04:59:11	21	Blackwell, Chris Kobach, and Hans von Spakovsky, as well
04:54:57	22	referring to PILF and Mr. Adams?	04:59:15	22	as President Trump; is that right?
04:54:59	23	A. I was.	04:59:17	23	A. I see that's what's there. That's correct.
04:55:32	24	Q. There's an e-mail to you from Larry Schwartzel	04:59:32	24	Q. Have you ever seen any of the Tweets that are
04:55:36	25	on Monday, August 13, 2018, at 3:26 p.m., where	04:59:38	25	reproduced on Pages 4 and 5?

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04:59:51 1	A. No. And some of them are disgusting.		05:02:53 1	A. I certainly agree that legitimate voters should	
05:00:03 2	Q. And then if you look at Page 6, you see there's		05:02:56 2	not be removed from the rolls for not being citizens.	
05:00:12 3	a Twitter graphic posted by Ken Blackwell that says,		05:03:00 3	It's my understanding that if there were more than 5,000	
05:00:15 4	"The fearless foursome. We don't believe in voters		05:03:09 4	instances of removal, they were not removed for long.	
05:00:18 5	without borders"?		05:03:12 5	And I'm not sure that I would characterize them as	
05:00:19 6	A. I see that's how it's identified, yes.		05:03:16 6	having been removed from the rolls. That's part of the	
05:00:22 7	Q. And then below that there is a reference to		05:03:20 7	actual procedures that I wanted to get clear with the	
05:00:24 8	you. It says, "But there are also the high-minded		05:03:23 8	state before commenting further that -- that we	
05:00:27 9	slurs. Consider Justin Levitt. This leftist academic		05:03:25 9	discussed earlier in the deposition.	
05:00:33 10	(I repeat myself) is known as the smartest man in		05:03:27 10	So I agree with the notion that legitimate	
05:00:38 11	California. If you didn't know he was, he'll remind		05:03:32 11	voters should not be removed from the rolls for not	
05:00:41 12	you."		05:03:35 12	being citizens. The rest of that paragraph contains a	
05:00:41 13	You see your picture under that?		05:03:38 13	few premises that I don't -- I don't know whether	
05:00:43 14	A. I do.		05:03:40 14	they're correct or not.	
05:00:48 15	Q. And he goes on to write, on Page 7, underneath		05:04:53 15	MR. LOCKERBY: I'd like to have this marked as	
05:00:56 16	your photo, "Levitt is part of the academic crowd that		05:04:55 16	Exhibit 43, please.	
05:01:01 17	pushes the voter-fraud-is-a-myth narrative to the legacy		05:04:55 17	(Whereupon the document referred to is marked	
05:01:06 18	media. Levitt doesn't like anyone talking about aliens		05:04:55 18	by the reporter as Defense Exhibit 43 for	
05:01:11 19	getting on the voter rolls. When the Public Interest		05:05:12 19	identification.)	
05:01:14 20	Legal Foundation documented over 5,500 voter		05:05:12 20	THE WITNESS: Thank you.	
05:01:18 21	registrations canceled for citizenship problems, Levitt		05:05:12 21	BY MR. LOCKERBY:	
05:01:22 22	went to work. See, he was at the justice department		05:05:25 22	Q. Exhibit 43 is another document that you	
05:01:26 23	during the Obama administration and was part of the		05:05:32 23	produced in -- again, it was a PDF and it had multiple	
05:01:30 24	neglect that led to corrupted roles. Because some of		05:05:37 24	documents in it. We've numbered it 6. And the first	
05:01:33 25	the people who were removed in Virginia were eventually		05:05:42 25	page is a May 30, 2017, e-mail. I wanted to direct your	
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05:01:36 1	put back on the rolls, he thinks the whole report can be		05:05:48 1	attention to an e-mail regarding the Trump Election	
05:01:40 2	ignored."		05:05:55 2	Commission dated July 21, 2017.	
05:01:42 3	The next paragraph -- I realize you probably		05:06:03 3	A. Okay.	
05:01:46 4	don't agree with any or many of the statements in		05:06:25 4	Q. Who is Gerald Kent, to whom you sent this	
05:01:48 5	that --		05:06:28 5	e-mail?	
05:01:48 6	MR. BRIDGES: Is -- is there a question		05:06:28 6	A. I believe he's a friend of my father's, but I	
05:01:50 7	pending?		05:06:37 7	am not entirely sure.	
05:01:51 8	MR. LOCKERBY: There is about to be a question,		05:06:41 8	Q. And the subject line of the e-mail is, "Trump	
05:01:52 9	yes.		05:06:45 9	Election Commission Already Under Fire Holds First	
05:01:54 10	BY MR. LOCKERBY:		05:06:47 10	Meeting, The New York Times."	
05:01:54 11	Q. In the following paragraph Mr. Adams writes,		05:06:50 11	Do you see that?	
05:01:59 12	"The problem is that governments shouldn't be removing		05:06:51 12	A. I do.	
05:02:02 13	citizens from the rolls as noncitizens any more than		05:06:52 13	Q. And in response, you didn't comment on The New	
05:02:06 14	governments should be putting noncitizens on the rolls."		05:07:02 14	York Times article at all, did you?	
05:02:10 15	Is that a statement with which you agree?		05:07:03 15	A. I did not.	
05:02:13 16	A. That -- that one sentence is a statement with		05:07:49 16	Q. Okay. I'd like to have you turn back now,	
05:02:15 17	which I heartily agree, yes.		05:07:52 17	please, Exhibit 34 once again.	
05:02:18 18	Q. And below that there is a statement that says,		05:07:57 18	A. Okay.	
05:02:25 19	Our report called any improper removal of citizens,		05:07:58 19	Q. And there should be in there an August 10,	
05:02:29 20	quote, a serious problem with less maintenance in the		05:08:08 20	2017, e-mail or series of e-mails from you to Jane Timm	
05:02:33 21	commonwealth. Legitimate voters should not be removed		05:08:15 21	at NBC Universal.	
05:02:37 22	from the rolls for not being citizens. If this explains		05:08:17 22	A. Yes.	
05:02:41 23	5,550-plus instances of removal for citizenship defects,		05:08:19 23	MR. LEBOWITZ: Which exhibit is this? Sorry.	
05:02:47 24	then that circumstance is also appalling.		05:08:22 24	THE WITNESS: It's the larger --	
05:02:50 25	Do you agree with that statement?		05:08:23 25	MR. LEBOWITZ: Thirty-four?	

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05:08:25 1	THE WITNESS:	Thirty-four.	05:12:36 1	To whom did you understand her to be referring	
05:08:26 2	MR. LOCKERBY:	Yes.	05:12:39 2	when she referred to "your publicist"?	
05:08:34 3	MR. GORMAN:	What date?	05:12:42 3	A. I understood her to be referring to Emily	
05:08:35 4	MR. LOCKERBY:	August 10 --	05:12:45 4	Samsel, who is not my publicist.	
05:08:36 5	THE WITNESS:	August -- sorry.	05:12:49 5	Q. Who is your publicist?	
05:08:40 6	MR. LOCKERBY:	-- 2017.	05:12:50 6	A. I am not fancy enough for a publicist still.	
05:09:01 7	MR. GORMAN:	Just so we're on the same page,	05:13:05 7	Q. And then if you turn a few pages, there's an	
05:09:03 8		you're talking 10:06 a.m., 10:09 a.m., or 10:33 a.m.?	05:13:16 8	August 16, 2017, e-mail posting. Do you see that?	
05:09:08 9	MR. LOCKERBY:	Let's start with the one --	05:13:23 9	A. I do.	
05:09:10 10	MR. GORMAN:	Or 9:50, actually.	05:13:24 10	Q. And that was copied to a voting fax and	
05:09:12 11	MR. LOCKERBY:	10:20 -- I see what you're	05:13:31 11	GoogleGroups.com. What is that e-mail address?	
05:09:13 12		saying.	05:13:33 12	A. I did not set it up. I understand it to be a	
05:09:15 13	MR. GORMAN:	That's a different thread.	05:13:39 13	number of individuals concerned with responding	
05:09:28 14	MR. LOCKERBY:	The 10:06 a.m. would be first.	05:13:49 14	factually and moderately and providing underlying data	
05:09:33 15	MR. GORMAN:	Thank you.	05:13:58 15	and context for overcharged claims of many different	
05:09:34 16	MR. LOCKERBY:	You're welcome.	05:14:06 16	kinds with respect to election administration.	
05:09:51 17	BY MR. LOCKERBY:		05:14:14 17	Q. Does it address undercharged claims?	
05:09:51 18	Q.	So the 10:06 a.m. e-mail is from you to Emily	05:14:18 18	A. It welcomes undercharged claims. The -- as I	
05:09:58 19		Samsel. Who is she?	05:14:21 19	understand it, part of the orientation of the group is	
05:10:00 20	A.	She, I believe, works at a public relations and	05:14:25 20	to supply real data and the facts that are known. And	
05:10:12 21		holding and messaging firm called SKDKnickerbocker.	05:14:34 21	undercharged claims actually respond to real data and	
05:10:19 22	Q.	And the subject line is "NBC News Inquiry:	05:14:38 22	the facts that are known.	
05:10:24 23	J. Christian Adams Profile."	Do you see that?	05:14:47 23	Q. And who is Charles Stewart?	
05:10:27 24	A.	Correct.	05:14:51 24	A. He's a professor of political science -- he	
05:10:28 25	Q.	Do you have any understanding as to why Emily	05:14:55 25	holds a fancier title than that -- at MIT.	
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05:10:31 1	Samsel	would be contacting you about discussing	05:15:00 1	Q. David Becker. Who is he?	
05:10:36 2	J. Christian Adams	with NBC news?	05:15:01 2	A. He is a former Department of Justice official.	
05:10:40 3	A.	I believe -- I -- I had spoken to her about	05:15:06 3	He now has, I believe, a consulting entity on its own.	
05:10:47 4		several other election-related developments that year	05:15:12 4	He helped to establish a multistate consortium --	
05:10:52 5		and before, and I believe she sent an inquiry out to a	05:15:19 5	bipartisan multistate consortium for comparing voter	
05:11:01 6		broader group -- she wasn't sending an e-mail out to me	05:15:23 6	registration rolls.	
05:11:06 7		in particular -- about whether anybody wished to	05:15:27 7	Q. And who is Adam Ambrogi -- Ambrogi?	
05:11:10 8		comment.	05:15:32 8	A. Adam Ambrogi is, I believe, a program	
05:11:11 9	Q.	And you responded that you wished to comment	05:15:35 9	officer -- I may get his title wrong as well -- with an	
05:11:23 10		about J. Christian Adams?	05:15:38 10	entity called the Democracy Fund, a funding entity.	
05:11:25 11	A.	I said that I could -- that I would be	05:15:43 11	Q. And Jean Bordewich. Who is that?	
05:11:28 12		available.	05:15:46 12	A. I believe she is -- I don't know her title,	
05:11:28 13	Q.	And did you, in fact, discuss Christian Adams	05:15:48 13	actually. I shouldn't speculate. She is with	
05:11:33 14		with NBC News?	05:15:51 14	Hewlett -- the Hewlett Foundation.	
05:11:34 15	A.	I did.	05:15:53 15	Q. And then Josh Dorner?	
05:11:37 16	Q.	And that's something you were volunteering to	05:15:55 16	A. I believe he's with SKDKnickerbocker, the	
05:11:40 17		do here?	05:16:01 17	public relations firm that I mentioned before.	
05:11:41 18	A.	Yes.	05:16:07 18	Q. On the fourth bullet point on this page, you	
05:11:41 19	Q.	And then if you look at the e-mail August 10,	05:16:11 19	write, "To David's rhetorical point on bad matching	
05:12:00 20		2017, 10:29 a.m., from you to Jane Timm, Ms. Timm had	05:16:15 20	leading to law-abiding citizens being accused of fraud,	
05:12:11 21		written at 10:13 a.m., "Hi again. Your publicist just	05:16:19 21	this is where Christian Adams' presence on the	
05:12:16 22		tried to send me your way while I was typing this	05:16:21 22	commission may be useful because he's discouraging and	
05:12:21 23		e-mail. Small voting rights world, eh? I'm profiling	05:16:25 23	sloppy in this respect."	
05:12:26 24		Christian Adams as a way into the lawsuits-to-purges	05:16:30 24	When you said that Christian Adams' presence on	
05:12:29 25		story. Got time to chat this afternoon or tomorrow?"	05:16:32 25	the commission may be useful, the commission to which	

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05:16:35 1	you were referring was the Presidential Advisory		05:20:04 1	highlighting what you called Adams' reckless sloppiness?	
05:16:39 2	Commission on Electoral Integrity?		05:20:08 2	A. Correct.	
05:16:41 3	A. Correct.		05:20:43 3	MR. LOCKERBY: If we could take a short break,	
05:16:41 4	Q. And why did you believe that Mr. Adams'		05:20:44 4	I think I could wrap things up fairly quickly after	
05:16:43 5	presence on the commission may be useful?		05:20:47 5	that.	
05:16:47 6	A. It shone a particular spotlight on some of the		05:20:47 6	MR. BRIDGES: Okay.	
05:16:56 7	discouragingly sloppy methodology of the commission to		05:20:48 7	THE VIDEOGRAPHER: We're off the record at	
05:16:59 8	date. The commission had taken a number of what I		05:20:49 8	5:20 p.m.	
05:17:06 9	perceive to be missteps, and I was not particularly		05:20:51 9	(A recess is taken.)	
05:17:12 10	impressed with the way they were going about their		05:35:53 10	THE VIDEOGRAPHER: We're back on the record at	
05:17:15 11	business.		05:35:55 11	5:35 p.m.	
05:17:30 12	Q. And so you thought his presence would help		05:35:56 12	BY MR. LOCKERBY:	
05:17:33 13	discredit the commission?		05:36:05 13	Q. In addition to the Alien Invasion reports that	
05:17:33 14	A. No. I thought that his presence would help		05:36:11 14	are the basis of this lawsuit, there are two other	
05:17:36 15	spotlight some of the sloppy methodology that others on		05:36:15 15	reports by PILF, copies of which are in your document	
05:17:39 16	the commission had already proven capable of.		05:36:19 16	production. And, in fact, one of them, Garden State	
05:17:53 17	Q. If you turn, please, to the August 28, 2017,		05:36:25 17	Gotcha, accounts for more than half of the volume of	
05:17:58 18	e-mail.		05:36:28 18	documents that you produced.	
05:18:04 19	MR. BRIDGES: August 20 or 28?		05:36:31 19	Did you attempt to verify the accuracy of the	
05:18:07 20	MR. LOCKERBY: 28th.		05:36:34 20	statements in Garden State Gotcha?	
05:18:08 21	THE WITNESS: Okay.		05:36:37 21	A. I did not.	
05:18:12 22	BY MR. LOCKERBY:		05:36:38 22	Q. I'm going to show you and counsel one of the	
05:18:12 23	Q. This e-mail was posted to the entire voting		05:36:49 23	documents that was produced in connection with Garden	
05:18:17 24	facts Listserv; correct?		05:36:53 24	State Gotcha and ask whether you recognize it; and if	
05:18:20 25	A. Correct.		05:36:56 25	you do, then I'll have it marked as an exhibit.	
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05:18:21 1	Q. And you've written, "Purely FYI, I also spoke		05:37:25 1	It says it's a sample response to a letter from	
05:18:35 2	to Jane for the NBC story, not least because I've spoken		05:37:28 2	Public Interest Legal Foundation.	
05:18:39 3	to some of the people that Adams falsely labeled		05:37:31 3	A. Yes.	
05:18:43 4	criminals. I've not yet been able to convince those		05:37:31 4	Q. Do you recognize this?	
05:18:45 5	people I've spoken to to come forward; but there is an		05:37:33 5	A. I do not.	
05:18:49 6	effort underway, including some of the people involved		05:37:33 6	Q. So you didn't draft this sample response?	
05:18:52 7	in this lawsuit, to do so in a way that highlights		05:37:36 7	A. No.	
05:18:57 8	Adams' reckless sloppiness. It's still in the early		05:37:38 8	MR. LOCKERBY: I'm not going to mark it as an	
05:19:01 9	stages, but I'm happy to keep you apprised as that		05:37:40 9	exhibit.	
05:19:04 10	develops in any way that I can share publicly."		05:37:40 10	BY MR. LOCKERBY:	
05:19:09 11	How many people, roughly, got this posting? Do		05:37:41 11	Q. Now, if we could turn back once again, please,	
05:19:13 12	you know?		05:37:45 12	to Exhibit 28 -- I'm sorry -- 38.	
05:19:13 13	A. I don't know.		05:37:53 13	A. Okay.	
05:19:19 14	Q. And when you refer to "some of the people		05:38:11 14	MR. BRIDGES: The one with the puzzle parts on	
05:19:20 15	involved in this lawsuit" in this posting, what was this		05:38:13 15	the bottom.	
05:19:29 16	lawsuit to which you're referring?		05:38:29 16	BY MR. LOCKERBY:	
05:19:31 17	A. I don't recall. I don't recall. I need to see		05:38:29 17	Q. And on the 60th page of this document, there	
05:19:36 18	the hyperlink to know.		05:38:35 18	are a series of Tweets dated April 12, 2018.	
05:19:38 19	Q. And when you said, "there is an effort underway		05:38:43 19	A. I found a series of Tweets. So that I don't	
05:19:41 20	to do so in a way that highlights Adams' reckless		05:38:46 20	have to count pages --	
05:19:46 21	sloppiness," what was the effort underway to which you		05:38:47 21	Q. At the top there is one by you that begins with	
05:19:49 22	were referring?		05:38:52 22	the sentence, "Unwarranted screaming about voter fraud."	
05:19:50 23	A. I don't know that I can answer that question		05:38:55 23	A. Okay.	
05:19:52 24	without violating privilege that I do not hold.		05:38:58 24	Q. And these Tweets were posted by you the day	
05:20:03 25	Q. But that effort was for the purpose of		05:39:08 25	that the complaint against PILF and Mr. Adams was filed;	

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05:39:08 1	correct?		05:42:51 1	you're referring e-mails from registrars that say what	
05:39:15 2	A. Correct.		05:42:55 2	they say?	
05:39:15 3	Q. And in the Tweet -- the first Tweet, when		05:42:55 3	A. Yes. That I believe are linked in the Tweet	
05:39:23 4	you're referring to "voter fraud vigilantes," were you		05:43:01 4	itself.	
05:39:27 5	referring to PILF and Mr. Adams?		05:43:04 5	Q. And then when you tweeted in 5 out of 7, "I	
05:39:35 6	A. Not solely, but yes.		05:43:09 6	talked to some of these citizens who were wrongly	
05:39:36 7	Q. And when you said, "The specific people		05:43:14 7	attacked. They were furious, and I don't blame them one	
05:39:41 8	targeted pay the price," were you referring to the		05:43:17 8	bit," are those the citizens who are identified in	
05:39:46 9	plaintiffs in this case?		05:43:23 9	what's been marked as Exhibit 32 and 33 to your	
05:39:46 10	A. Not individually -- the plaintiffs, among		05:43:27 10	deposition?	
05:39:49 11	others, yes.		05:43:35 11	A. Yes. Some of them, yes.	
05:39:50 12	Q. And as of April 12, 2018, what price had the		05:43:41 12	Q. And then in No. 6 out of 7, you state, "I don't	
05:39:57 13	specific people targeted paid?		05:43:54 13	know whether wrongly claiming that people have committed	
05:40:00 14	MR. BRIDGES: Object. That assumes facts.		05:43:57 14	felonies in publishing their personal info in the scope	
05:40:03 15	Lacks foundation.		05:44:01 15	of a sloppy and overheated vigilante campaign against	
05:40:04 16	If you want to ask him what he meant, you can		05:44:06 16	voter fraud is better labeled as bullying or doxxing or	
05:40:07 17	ask him; but I -- that -- subject to that objection, you		05:44:12 17	both."	
05:40:11 18	may respond, if you have a response.		05:44:12 18	Now, the reference to doxxing, that was part of	
05:40:14 19	THE WITNESS: I -- I don't know what they would		05:44:19 19	your theory of how the Ku Klux Klan Act might be used as	
05:40:17 20	say and certainly can't speak for them. I know that		05:44:23 20	cause of action in this case against Mr. Adams or PILF;	
05:40:23 21	they're -- the information of people in the report was		05:44:28 21	isn't that right?	
05:40:28 22	publicly disclosed. It was claimed that they had		05:44:28 22	MR. BRIDGES: Objection. Assumes facts not	
05:40:33 23	unlawfully registered while noncitizens.		05:44:30 23	established. Lacks foundation. And I don't know to the	
05:40:38 24	In several cases -- sloppy cases, the		05:44:35 24	extent it might interfere with others' work product.	
05:40:43 25	individuals involved were citizens. Their personal		05:44:40 25	But with those objections and if you can do so	
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05:40:50 1	information, including their address, their dates of		05:44:43 1	without -- you can respond without disclosing	
05:40:55 2	birth. I believe -- I'm not sure -- in some cases		05:44:48 2	information for which you're not the holder of a	
05:41:03 3	signatures. I'm sure in some cases full social security		05:44:51 3	privilege, please reply.	
05:41:06 4	numbers. In some cases part social security numbers. I		05:44:53 4	THE WITNESS: I can tell you what I meant by	
05:41:11 5	think I've mentioned home address were all produced in a		05:44:55 5	"doxxing" in this Tweet. I cannot reveal discussions in	
05:41:17 6	public document alongside the allegation that they had		05:44:59 6	or around any filings in this case without violating	
05:41:19 7	committed felonies. And that information was and may		05:45:03 7	somebody else's privilege that I do not hold.	
05:41:26 8	still be -- I'm not sure whether it's still up online --		05:45:06 8	BY MR. LOCKERBY:	
05:41:30 9	available for anyone to find. At least some of the		05:45:06 9	Q. Well, in fact, you have already revealed the	
05:41:34 10	individuals with whom I had spoken were upset and/or		05:45:08 10	theory of doxxing as used in this case to third parties;	
05:41:42 11	afraid as a result. So that was at least one price that		05:45:13 11	isn't that true?	
05:41:52 12	I thought they might have paid, but I don't know what		05:45:13 12	A. I -- A, I don't know to what you're referring	
05:41:57 13	they would have said.		05:45:19 13	to; but B, I don't believe that I have discussed any	
05:41:59 14	BY MR. LOCKERBY:		05:45:25 14	relevance to this case.	
05:41:59 15	Q. That was your statement of what price you		05:45:29 15	Q. Well, let's look -- I'm sorry. I didn't mean	
05:42:03 16	thought they had paid?		05:45:32 16	to cut you off.	
05:42:05 17	A. At least by that point already, yes, I		05:45:34 17	A. So I don't know that I can answer your	
05:42:09 18	understood that the -- that individual -- that it was at		05:45:36 18	question. I don't -- if you're talking about the theory	
05:42:19 19	least possible for individuals to take further action		05:45:39 19	of doxxing, I can tell you what I think about the theory	
05:42:22 20	based on the incorrect allegations in the report that		05:45:42 20	of doxxing. If you're asking what I've discussed in	
05:42:26 21	might lead to a further price.		05:45:45 21	particular context with attorneys in this case, I can't	
05:42:30 22	Q. And when you say in your Tweet, 11:57 a.m.,		05:45:48 22	answer that. And if you're discuss -- if you're talking	
05:42:37 23	April 12, 2018, "The defendant in today's suit was		05:45:51 23	about what I've discussed in particular context with	
05:42:42 24	repeatedly warned that his info was bad info. He		05:45:53 24	third parties about this case, I -- I don't know that I	
05:42:48 25	published anyway," are the repeated warnings to which		05:45:58 25	have. But if I -- if there's a document that you're	

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05:46:00 1	referring to, I'm not sure what you're referring to.		05:49:30 1	communications that may be the work product of others	
05:46:03 2	Q. Take a look, please, at -- we'll be coming to		05:49:33 2	that he doesn't hold the privilege for.	
05:46:07 3	back to Exhibit 38, but look at Exhibit 34. It's the		05:49:35 3	MR. LEBOWITZ: Then to the extent it's not, it	
05:46:15 4	hundred and twenty -- 20th and 121st page; but it's		05:49:37 4	calls for speculation.	
05:46:19 5	easier to find if you look at the August 7, 2018,		05:49:39 5	THE WITNESS: Well, and I -- and I'm -- I am --	
05:46:24 6	e-mail --		05:49:42 6	I'll add one. I'm confused. I'm not sure whether	
05:46:25 7	A. Okay.		05:49:44 7	you're asking about my interpretation of the public	
05:46:26 8	Q. -- to Caroline Fredrickson and to Pamela		05:49:46 8	documents that have been filed or about my conversations	
05:46:30 9	Karlan, "Re the Klan Act."		05:49:49 9	with attorneys. And so I -- I guess I don't know what	
05:46:41 10	A. Yes.		05:49:53 10	you mean by the question.	
05:46:41 11	Q. Who are Caroline Fredrickson and Pamela Karlan?		05:49:56 11	BY MR. LOCKERBY:	
05:46:54 12	A. Caroline Fredrickson I believe is the executive		05:49:58 12	Q. So you don't understand the question? Is that	
05:46:58 13	director of the American Constitution Society. Pamela		05:50:01 13	your testimony?	
05:47:01 14	Karlan is a law professor at Stanford Law School.		05:50:02 14	A. Yes.	
05:47:05 15	Q. And as far as you know, do either of those		05:50:02 15	Q. First of all, at the beginning of the	
05:47:08 16	organizations or individuals claim some kind of work		05:50:10 16	paragraph, you write, "I know there was a lot of time	
05:47:15 17	product protection over your communications with them?		05:50:13 17	and attention paid to how to frame the Klan Act	
05:47:19 18	A. No.		05:50:16 18	allegations in this suit and the suit against Adams in	
05:47:27 19	Q. And in the first paragraph you're referring to		05:50:19 19	Virginia."	
05:47:32 20	the case of Cockrum versus Trump For President.		05:50:20 20	How do you know that there was a lot of time	
05:47:36 21	Do you see that?		05:50:22 21	and attention paid to how to frame the Klan Act	
05:47:36 22	A. I do.		05:50:25 22	allegations against Adams in Virginia?	
05:47:37 23	Q. And you have a parenthetical, "Counsel on the		05:50:27 23	A. That would require my violating privilege that	
05:47:44 24	case were from Protect Democracy, Altshuler Berzon,		05:50:33 24	I do not hold.	
05:47:49 25	Keker Van Nest, and Richard Primus from Michigan Law."		05:50:34 25	Q. Well, you know that. I'm not asking --	
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05:47:54 1	Do you see that?		05:50:38 1	A. You asked how I know that.	
05:47:54 2	A. I do.		05:50:39 2	Q. -- the substance.	
05:47:55 3	Q. And then in the second paragraph, you write,		05:50:40 3	But you know that by virtue of your discussions	
05:48:02 4	"For what it's worth" -- using an acronym -- "I know		05:50:43 4	with the Southern Coalition for Social Justice and the	
05:48:05 5	there was a lot of time and attention paid to how to		05:50:48 5	Protect Democracy Project; is that right?	
05:48:10 6	frame the Klan Act allegation in this suit and the suit		05:50:49 6	A. I'm not going to talk about the content of	
05:48:13 7	against Adams in Virginia. The Klan Act was used in the		05:50:51 7	conversations I had that might violate the privilege I	
05:48:19 8	past for violence or threats of violence and the VRA,		05:50:54 8	do not hold.	
05:48:25 9	Voting Rights Act, added intimidation and coercion that		05:50:56 9	Q. The theory of liability against PILF and	
05:48:31 10	encompasses specific economic threats. Doxxing connects		05:51:04 10	Mr. Adams under the Klan Act is -- in this litigation is	
05:48:35 11	the dots from the targeted public release of private,		05:51:10 11	as described in that third sentence. Quote, Doxxing	
05:48:39 12	personal information to the sort of intimidation		05:51:15 12	connects the dots from the targeted public release of	
05:48:44 13	contemplated by the Klan Act."		05:51:20 13	private, personal information to the sort of	
05:48:46 14	Do you see that?		05:51:23 14	intimidation contemplated by the Klan Act; is that	
05:48:46 15	A. I do.		05:51:23 15	right?	
05:48:47 16	Q. And that statement about doxxing explains the		05:51:28 16	A. That is my impression of the claims that have	
05:48:57 17	theory by which the plaintiffs in the case in which		05:51:31 17	been made publicly and my understanding of the -- the	
05:49:01 18	you're testifying seek to hold PILF and Mr. Adams liable		05:51:46 18	Klan Act claim that has been made in this case, but I do	
05:49:06 19	for violation of the Ku Klux Klan act; isn't that right?		05:51:51 19	not speak for counsel about what their theory of the	
05:49:09 20	MR. BRIDGES: I'm going to object to that		05:51:54 20	case is.	
05:49:10 21	question as phrased because I think it gets into -- if		05:51:59 21	Q. And you knew that as of April 12, 2018, the day	
05:49:14 22	it gets into protected attorney work product		05:52:06 22	the complaint was filed, when you said in the Tweet	
05:49:18 23	conversations. If you want to rephrase it and ask him		05:52:10 23	that's been marked as part of -- it is part of	
05:49:21 24	what he means about it here, I won't -- I won't include		05:52:14 24	Exhibit 38, that you didn't know whether it was better	
05:49:24 25	that objection. But I think as phrased, it invades		05:52:17 25	labeled as bullying or doxxing or both?	

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05:52:21 1	A. If you're asking about whether I knew that that	05:54:46 1	Q. And one is the case in which you're testifying				
05:52:24 2	would be the theory of the case, I would have to refresh	05:54:48 2	today?				
05:52:27 3	my recollection about what's in the complaint. But that	05:54:50 3	A. Correct.				
05:52:36 4	statement in the Tweet doesn't refer to a legal theory.	05:54:52 4	Q. Have you ever advocated publicly for such an				
05:52:43 5	So the question is a little bit hard to follow; but I	05:54:57 5	interpretation of the Ku Klux Klan Act other than in the				
05:52:48 6	think the answer is no, that's incorrect. But if	05:55:02 6	e-mail that we just looked at?				
05:52:50 7	you're -- but I think you were asking about my knowledge	05:55:05 7	MR. BRIDGES: I'll object to that				
05:52:53 8	on a particular date in question, and so I'd have to	05:55:09 8	mischaracterization of the evidence.				
05:52:56 9	actually --	05:55:11 9	Subject to that, you may answer.				
05:52:56 10	MR. BRIDGES: I think that means --	05:55:12 10	THE WITNESS: Yeah. I don't know that that				
05:52:56 11	THE WITNESS: -- check --	05:55:14 11	e-mail is advocating for.				
05:52:58 12	MR. BRIDGES: -- you're speculating, so...	05:55:16 12	BY MR. LOCKERBY:				
05:52:59 13	MR. LOCKERBY: Well, I think that the witness	05:55:17 13	Q. I'll strike the reference to the e-mail.				
05:53:01 14	should be allowed to answer without coaching.	05:55:19 14	Have you ever advocated publicly for such an				
05:53:05 15	MR. BRIDGES: Well, when he's guessing at your	05:55:23 15	interpretation of the Ku Klux Klan Act?				
05:53:07 16	question, he's speculating.	05:55:25 16	A. I don't believe I have.				
05:53:08 17	THE WITNESS: Can you read the question back,	05:55:26 17	Q. Have you seen others advocate for such an				
05:53:10 18	please. I apologize.	05:55:29 18	interpretation?				
05:53:12 19	MR. LOCKERBY: It's not appropriate for counsel	05:55:30 19	A. This is where I'd have to refer to the legal				
05:53:14 20	to advise the witness how to answer. Counsel can simply	05:55:33 20	briefs but -- filed in both the Cockrum case and -- and				
05:53:19 21	object to questions.	05:55:38 21	this case. Outside of that, I don't know. I don't				
05:53:25 22	DEPOSITION OFFICER: Should I read it back?	05:55:49 22	recall.				
05:53:26 23	THE WITNESS: I'd like to make sure I'm	05:55:49 23	Q. Were the plaintiffs in the Cockrum case				
05:53:28 24	answering the question that was actually asked.	05:55:52 24	successful?				
05:53:29 25	(The record is read by the reporter as	05:55:53 25	A. Not yet, is my understanding. I understand				
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05:53:29 1	follows:	05:55:57 1	that the case is still continuing. I don't know if				
05:51:59 2	"Q. And you knew that as of April 12, 2018,	05:56:02 2	that's accurate or not.				
05:52:05 3	the day the complaint was filed, when you said	05:56:03 3	Q. What did you do to prepare to testify today?				
05:52:10 4	in the Tweet that's been marked as part of --	05:56:10 4	A. I collected the documents requested by the				
05:52:13 5	it is part of Exhibit 38, that you didn't know	05:56:17 5	subpoena. I had conversation with my counsel. That's				
05:52:16 6	whether it was better labeled as bullying or	05:56:31 6	essentially it.				
05:52:20 7	doxxing or both?"	05:56:33 7	Q. Have you had communications with plaintiff's				
05:53:53 8	THE WITNESS: So to the extent the question	05:56:36 8	counsel about your deposition today?				
05:54:00 9	presumes that the Tweet refers to the legal theory of	05:56:39 9	A. Only the fact that I was having one.				
05:54:03 10	the case, that is incorrect. To the extent the question	05:56:43 10	Q. Have you had communications with counsel for				
05:54:07 11	asks about my knowledge of the legal theory of the case,	05:56:47 11	plaintiff's counsel -- at least counsel for some of				
05:54:10 12	I need to review the complaint in order to answer your	05:56:51 12	plaintiff's counsel about your deposition testimony				
05:54:13 13	question.	05:56:53 13	today?				
05:54:14 14	BY MR. LOCKERBY:	05:56:55 14	A. I'm not even sure we even had conversations				
05:54:14 15	Q. Are you aware of any case in which doxxing has	05:56:58 15	about the fact that I was having one. Only about the				
05:54:20 16	been successfully invoked as a basis for holding a	05:57:01 16	fact of when -- if I even did that. And I'm not -- I				
05:54:24 17	defendant liable for violation of what's known as the	05:57:04 17	can't honestly say if I did.				
05:54:28 18	Ku Klux Klan Act?	05:57:05 18	Q. Have you spoken with anyone other than counsel				
05:54:29 19	A. Not yet.	05:57:07 19	about your deposition today?				
05:54:33 20	Q. And you're aware of only two cases in which	05:57:09 20	A. Yes.				
05:54:36 21	it's been attempted; isn't that right?	05:57:10 21	Q. With whom have you spoken about it?				
05:54:39 22	A. That's correct.	05:57:13 22	A. A few of the individuals named in documents				
05:54:41 23	Q. One is a case against the Trump For President	05:57:18 23	provided via subpoena.				
05:54:45 24	Campaign?	05:57:20 24	Q. And what individuals are those?				
05:54:46 25	A. Correct.	05:57:24 25	A. I don't recall all of them. I don't recall all				

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05:57:38 1	of them. I can name those that I remember, if that's		06:02:18 1	doxxing. The release of some of the information in --	
05:57:43 2	useful.		06:02:31 2	in some of the exhibits, including the individual	
05:57:44 3	Q. That would be.		06:02:34 3	personally identifiable information, along with the	
05:57:48 4	A. Rick Hasen, Pildes, Hako Lines [phonetic], Jane		06:02:38 4	assertion that individuals had committed crimes, could	
05:58:02 5	Timm, Pema Levy.		06:02:45 5	in some circumstances be considered doxxing. But I'm	
05:58:08 6	Q. I'm sorry. What was the last one?		06:02:49 6	not sure.	
05:58:10 7	A. Pema Levy.		06:02:50 7	MR. LOCKERBY: I have no further questions at	
05:58:18 8	Caroline Fredrickson, Cameron Bell. One of the		06:02:52 8	this time. Depending upon how various -- when and how	
05:58:45 9	individuals at Slate. I honestly can't remember which.		06:02:57 9	various claims of attorney-client privilege and work	
05:59:11 10	Vanita Gupta, other individuals at Loyola Law School,		06:03:01 10	product immunity are resolved -- not agreeing that this	
05:59:39 11	one of the individuals at SKDK, David Becker, David		06:03:06 11	is over. I realize that your counsel, plaintiff's	
05:59:57 12	Graham, Ed Pilkington.		06:03:09 12	counsel, counsel for some of plaintiff's counsel would	
06:00:05 13	I think that's it. There may be others.		06:03:13 13	have a different view; but we don't need to argue about	
06:00:11 14	Q. Have you posted any --		06:03:15 14	that at this point.	
06:00:12 15	A. Pam Fessler.		06:03:17 15	THE WITNESS: Thank you.	
06:00:16 16	Q. I'm sorry. I didn't mean to cut you off.		06:03:17 16	MR. LOCKERBY: You have the right to review the	
06:00:19 17	A. Pam Fessler. There may be others.		06:03:20 17	transcript of your deposition and correct any errors	
06:00:21 18	Q. Have you posted anything on Twitter about your		06:03:22 18	before it becomes part of the record.	
06:00:27 19	deposition?		06:03:24 19	Would you like to do so?	
06:00:27 20	A. I have not.		06:03:25 20	THE WITNESS: I would.	
06:00:28 21	Q. Have you sent any e-mails to the Listserv about		06:03:28 21	MR. LOCKERBY: Thank you.	
06:00:32 22	your deposition?		06:03:30 22	THE WITNESS: Thank you.	
06:00:32 23	A. I have not.		06:03:30 23	DEPOSITION OFFICER: Would you like to order a	
06:00:33 24	Q. What did you discuss with Mr. Hasen about your		06:03:32 24	copy?	
06:00:36 25	deposition?		06:03:32 25	MR. LEBOWITZ: Yes, please.	
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06:00:37 1	A. I can make this easier for you. I discussed		06:03:34 1	THE VIDEOGRAPHER: This is the end of the	
06:00:39 2	the same thing with each of them. That I would be		06:03:36 2	deposition of Justin Levitt, Volume I. The date is	
06:00:42 3	having a deposition, that pursuant to that I might have		06:03:39 3	April 17, 2019. The time is 6:03 p.m.	
06:00:48 4	to disclose documents in which they were named.		06:03:45 4	And we're off the record.	
06:00:53 5	Q. Why did you notify all the individuals or		06:03:46 5	(Deposition session concluded at 6:03 p.m.)	
06:00:58 6	entities that you've named about that fact?		6	-oOo-	
06:01:02 7	A. One of the individuals involved in this case		7		
06:01:09 8	has in the past publicly produced documents in a matter		8		
06:01:17 9	leading to embarrassment, and I wanted to notify these		9		
06:01:21 10	individuals that the documents were being turned over.		10		
06:01:26 11	Q. Was there anything in these documents that you		11		
06:01:28 12	thought would lead to embarrassment?		12		
06:01:32 13	A. I don't know.		13		
06:01:34 14	Q. What had been publicly produced before that had		14		
06:01:37 15	led to embarrassment?		15		
06:01:39 16	A. Some -- some of the registration forms that		16		
06:01:49 17	have been produced led to the embarrassment of the		17		
06:01:52 18	individuals named in those registration forms. In some		18		
06:01:55 19	other cases I know that résumés and the like had been		19		
06:02:01 20	collected in public records requests or litigation, and		20		
06:02:05 21	the contents had been disclosed in a way that produced		21		
06:02:09 22	embarrassment.		22		
06:02:10 23	Q. Did you consider that embarrassment to be		23		
06:02:12 24	doxxing?		24		
06:02:13 25	A. No. I did not consider embarrassment to be		25		

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<p>1 I have read the foregoing and by signing hereafter, 2 approve same. 3 4 Dated _____. 5 6 _____ 7 (Signature of Deponent) 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 of the testimony given by the witness. (Fed. R. Civ. P. 2 30(f)(1)). 3 Before Completion of the deposition, review of 4 the transcript { X } was { } was not requested. If 5 requested, any changes made by the deponent (and 6 provided to the reporter) during the period allowed, are 7 appended hereto. (Fed. R. Civ. P. 30(e)). 8 9 Dated: April 19, 2019 10 11 12 _____ 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>Page 226</p> <p>1 DEPOSITION OFFICER'S CERTIFICATE 2 3 STATE OF CALIFORNIA } 4 } ss. 5 COUNTY OF LOS ANGELES } 6 7 I, THERESA JOANN PHILLIPS-BLACKWELL, hereby certify: 8 I am a duly qualified Certified Shorthand 9 Reporter in the State of California, holder of 10 Certificate Number CSR 12700 issued by the Court 11 Reporters Board of California and which is in full force 12 and effect. (Fed. R. Civ. P. 28(a)). 13 I am authorized to administer oaths or 14 affirmations pursuant to California Code of Civil 15 Procedure, Section 2093(b) and prior to being examined, 16 the witness was first duly sworn by me. (Fed. R. Civ. 17 P. 28(a), 30(f)(1)). 18 I am not a relative or employee or attorney or 19 counsel of any of the parties, nor am I a relative or of 20 such attorney or counsel, nor am I financially 21 interested in this action. (Fed. R. Civ. P. 28). 22 I am the deposition officer that 23 stenographically recorded the testimony in the foregoing 24 deposition and the foregoing transcript is a true record 25 ///</p>	

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